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The Carmel Pine Cone

Volume 89 No. 1

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January 3-9, 2003

YOUR SOURCE FOR LOCAL NEWS, ARTS AND OPINION SINCE 1915

Court flummoxes 'unconstitutional' coastal panel

Mementoes discovered in inn's basement

By MARGOT PETIT NICHOLS

IMAGINE HOW an incurable collector feels when a lost treasure comes to light and is laid at his feet.

"Ecstatic" is how Tom Markle felt when a carton of memorabilia from the life of Carmel legend Don Blanding was presented to him recently by Dawn Dull, manager of Vagabond's House Inn on Dolores Street.

Markle, who lives in Vacaville, became an avid collector of books, poems, letters and other creations by the prolific Blanding after Markle discovered his poetry in a Washington state coffee house late one night many years ago. Blanding's book of poems, "Vagabond's House," literally fell onto Markle from a bookshelf above his head.

Taken aback by this strange introduction, he glanced through the book, was intrigued enough to read the poetry, and became enamored of Blanding's verse and its messages. He set out to learn as much about the poet as possible. Not only was Blanding a poet, Markle discovered, but a much-revered author, graphic artist and a lyricist.

Blanding cut a wide, charismatic swath through Carmel-by-the-Sea during the 1930s, '40s and '50s. He is the only person ever to have an entire issue of The Carmel Pine Cone dedicated to him — with stories and advertisements in the March 5, 1937, newspaper written as a composite portrait by "his friends, acquaintances, townspeople and enemies" in



PHOTO/COURTESY TOM MARKLE

Carmel legend Don Blanding at work on his typewriter while staying at Vagabond's House Inn in Carmel-by-the-Sea. His signature cigarette holder and distinguished profile were well known by his adoring public here.

praise of his talents and his persona. There is even a paen to Blanding by famed mystery writer Erle Stanley Gardner. The universally admired Blanding was not only multi-talented, he bore the handsome features of a matinee idol which were reproduced in silhouette on page one of that special Pine Cone edition.

See **BLANDING** page 9A

1,100 runners start new year on right foot

By MARY BROWNFIELD

DOGS, TODDLERS in strollers, a speedy octogenarian and even a man dressed up as a partially clothed

AWOL hospital patient were among the thousand-plus runners who did their bit New Year's Day to help raise more than \$35,000 for suicide prevention programs during the 13th Annual Rio Resolution Run.

The race, which featured a 3-mile fun walk/run and a 6.5-mile run beginning outside race founder Tony Tollner's Rio Grill in The Crossroads, took hundreds of early risers — a strong showing — through downtown Carmel and along the coast before wrapping up at Larson Field.

"We ordered 1,100 bibs on the off chance it was going to be stronger than ever, and it was," said race coordinator Julie Ann Lozano, who has worked the run for the last 11 years. "We only had seven bibs left."



PHOTO/MARY BROWNFIELD

Santa Catalina students Claire Giffen (9) and Mady (7) and Allison Fithian (9) warmed up with hot cocoa before tackling their very first Rio Resolution Run on New Year's Day.

See **RUN**
page 5A

FACED WITH an unequivocal ruling from an appeals court that it has violated the state constitution for all of its 26-year history, the California Coastal Commission will meet in Los Angeles next week to figure out how to stay in business.

"The commission will have a closed session to decide if it wants to appeal," said Lisa Trankley, a member of the legal team that defended the coastal commission in court. "It's going to cause problems if the appeals court ruling goes into effect."

"I don't think there's an organized game plan at the moment, and I'll be very interested to hear what my colleagues are thinking," said Dave Potter, a coastal commissioner from Monterey County. "The logical thing is to ask the Supreme Court for a stay and ask the Legislature for a fix, but there's no way to be sure what that would be. If this train just stops in the middle of nowhere, there'll be a lot of problems for people who are waiting in line for permits."

One Carmel property owner, who spent years trying to get approval for a new house, said he supports the coastal commission's "important role" as protector of the state's precious coastline. But the commission wielded power over even minute issues that should be decided by elected city officials.

"In our case, we felt the commission had way too much power," said Bill Shellooe, who spent four years trying to get a permit to tear down two old cottages on Scenic Road. The City of Carmel approved the plan, but the coastal commission stopped it after four hearings, forcing the Shellooes to rehabilitate the cottages at great expense.

"The people who brought this lawsuit against the coastal commission — they did a great public service, especially for people like us," Shellooe said.

Tuesday, a three-judge panel from the California Court of Appeal ruled unanimously that the commission could no longer "grant, deny or condition" permits or issue cease-and-desist orders. Those are functions of the executive branch, the court said, while the coastal commission is controlled by the Legislature because a majority of its members serve at the pleasure of the President of the Senate and the Speaker of the Assembly.

"The scheme for appointment of its members gives the legislative branch control over the commission, thus impermissibly interfering with the commission's executive branch responsibility to execute the laws," the court said. (The judges' ruling is printed in its entirety in this week's Pine Cone, beginning on page 17A.)

Keeping the different branches of government separate is important to protect individual rights, according to Sacramento attorney Ron Zumbrun, who brought the lawsuit against the coastal commission on behalf of the Marine Forests Society — an environmental group ordered by the

See **COMMISSION** page 20A

City not worried about court ruling

By TAMARA GRIPPI

THE STATE appeals court ruling that the California Coastal Commission is unconstitutional shouldn't cause any immediate problems for the City of Carmel, which is hoping to receive approval for its proposed Local Coastal Program, according to Mayor Sue McCloud.

McCloud conferred with City Attorney Don Freeman, who explained that since the LCP is a question of policy, not enforcement, it would be unaffected by the ruling, the mayor said.

"We're going forward with business as usual," said McCloud, noting that the city is already planning a public meeting to discuss the latest modifications to the long-over-

See **LCP** page 20A

Red Cross helps soldiers phone home

By TAMARA GRIPPI

DONATIONS TO the American Red Cross "Military Connect" program will give soldiers serving all over the world the precious gift of a phone call home.

The Red Cross hopes many donors will step forward to buy phone cards — in increments of \$15, \$25 or \$50 — which will be distributed to American military personnel. The phone cards can be purchased for a specific soldier, or for any recruit needing a way to phone home.

Prosodie Interactive, the company providing the phone card program, will donate 10 percent of the proceeds to the American Red Cross. The local chapter in each contributor's hometown will benefit.

Laura Kershner, public relations director of the Monterey chapter, hopes to offer the phone cards to as many service people as possible.

"A lot of the folks in the military are young people who may be away from home for the first time," she said.

The phone cards also have a unique voice mailbox where messages can be left for the soldier. That allows service people to hear a loved one's voice, even if time-

zone difference and duty schedules prevent them from actually talking.

The American Red Cross, mandated by Congress to serve as the official liaison between military personnel and their families, has a long history of relaying emergency messages to soldiers. Last year 1.2 million calls were sent.

"The Red Cross was actually born of war," Kershner explained.

Founder Henry Dunant, a Swiss citizen, conceived the idea of an international relief organization in 1859 after witnessing the devastation of a battle between the Austrian and French armies in Italy.

Horrified by the sight of thousands of soldiers left to suffer for want of medical care, Dunant appealed to local people to help him tend them, insisting that soldiers on both sides should be aided. Soon after, the International Red Cross was born.

Kershner hopes the phone card program will make a big difference in helping soldiers stay in touch with their families.

The phone cards can be purchased online at www.militaryconnect.org or by calling (888) 682-7020. Contributors may also log onto the Red Cross website, www.montereyarc.org.

Carmel schools prepare for state to lower the boom

By MARY BROWNFIELD

THE EVER-UPWARD creeping of the state's budget deficit — currently \$34.8 million for the next 18 months — has Carmel Unified School District officials ready to fight to keep crucial dollars flowing their way.

"The greatest concern will be the mid-year cuts [slated for discussion in January],

'There aren't particular programs that I'm concerned about — I'm concerned about all of them at this point.'

— Marvin Biasotti
Superintendent of schools

because like any school district, the majority of our money is in salaries and under contract, and it's therefore difficult — if not impossible — to reduce those expenditures mid-year," said CUSD Superintendent Marvin Biasotti.

Special programs offered by the school, such as the Gifted and Talented Education program and the school improvement program, could also suffer.

"I'm not going to speculate, because I don't want to alarm anybody prematurely," he said. "There aren't particular programs that I'm concerned about — I'm concerned about all of them at this point."

Making their case for the state

In preparing for the upcoming budget talks, CUSD officials and various organizations, including the Association of California School Administrators, the California School Boards Association and the Small School District Association, are conferring almost daily on how to make their case to the state. Biasotti hopes the district will be allowed to finish out the school year with its current budget.

"While we agree that educational agencies, including Carmel Unified, need to share the burden, this is a true state budget crisis," Biasotti said. "We would hope for flexibility and that planning be looked at long-range over the next several years."

"And that we avoid mid-year cuts."

Failing that, CUSD should be allowed to decide where the belt-tightening must occur, according to the superintendent.

"The thing we would want in mid-year cuts is flexibility in how we shoulder our share of the burden, the degree to which the state gives us discretion on where the cuts would take place," he said.

The big picture — not only the mid-year situation, but next year's numbers — should start coming into focus later this month, when Biasotti and CUSD Business Manager Judy Long attend a budget workshop hosted by School Services of California Jan. 14.

"We'll hear their analysis of the budget for next year, and then we will have a better idea," he said. "No doubt there will be a lot of conversation: Although we're hearing about next year's budget, I'm sure we will be hearing about mid-year cuts as well."

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PAID EDITORIAL



REAL ESTATE
ON THE PENINSULA
BY JOHN S. LEVINSON

WHEN DO WE LOSE THE DEDUCTION?

It seems that most of us assume that any interest we pay on a loan secured by our home will be deductible, but occasionally we hear that there are occasions when such interest payments aren't actually deductible on our annual tax return. When does this happen?

All interest paid on your original purchase money mortgage amount—plus interest paid on loans up to an additional \$100,000 which are secured by the home (in a refinance or as home equity loans, generally)—is deductible. There are two very important details here. First, the balance on your purchase money mortgage goes down a bit every time you make a monthly payment. It is that declining figure (plus \$100,000), not the original dollar amount of the purchase money loan, that establishes what you will be able to continue deducting.

Second, you do not raise the available purchase money amount by refinancing your home. Thus, if your loan balance is \$260,000 and you have no other loans against your home, you can refinance your loan with a \$360,000 mortgage loan. The interest paid on a loan any higher than that will not be deductible.

Always consult your real estate advisor, your real estate finance advisor and, above all, your tax advisor when considering any changes to your real estate financing. Questions? Call John Levinson at 659-8002.

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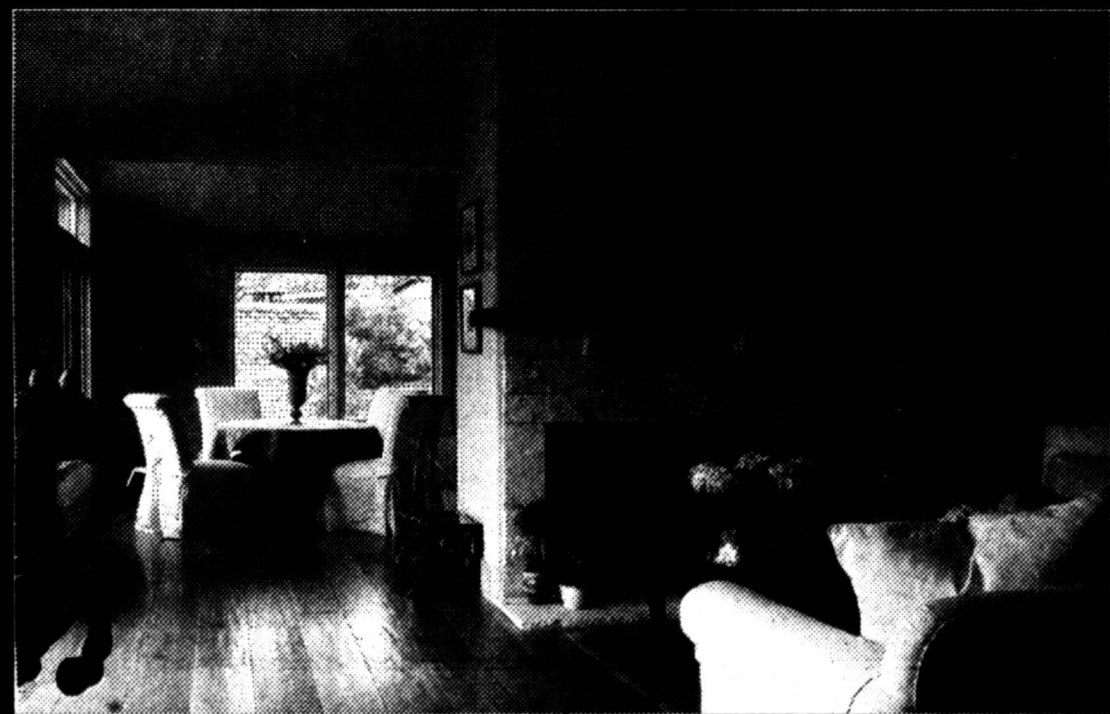
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REAL ESTATE

First city manager Bayless left his mark on Carmel

By TAMARA GRIPPI

HUGH BAYLESS, who served as Carmel's top-ranking city official for 15 years during the 1960s and 1970s, wrote the law that brought Carmel into the modern era by giving the city administrator the power to run the city.

Mr. Bayless died Dec. 23 at his home in Fredericksburg, Texas. He was 85.

When he retired as city administrator in 1977, he said his most important achievement in Carmel was convincing the city council to give up some of its power in favor of the city administrator.



Hugh Bayless, 1982

Until that point, Mr. Bayless and his predecessors had been unable to run the various city departments because members of the city council required the various managers to report to them — a system Bayless considered illegal. Shortly before he retired, the city council finally voted to adopt the ordinance establishing the powers and position of city administrator.

Those who worked closely with the longtime city clerk and Carmel's first city administrator remembered him as a man of integrity who had a genuine concern for his employees. "Mr. B., as we called him, was very sensitive to his employees," said former employee Dorothy Grimshaw. "When he saw someone like me with potential, which I didn't see, he encouraged me to expand."

Grimshaw remembered Mr. B would often be the first to arrive at Carmel City Hall in the winter in order to build a fire to warm the offices before any of the employees arrived.

Karen Love, the city's finance specialist, recalled Mr. Bayless as intelligent man with a "wicked sense of humor."

"He would write letters with all these words no one would understand, but if they took the time to look up the words they would find out he insulted them," Love said. "Business was done with a handshake — and it worked," she added.

Former City Attorney George Brehmer also remembered Bayless' mischievous streak as well as his professionalism.

"He often would have fun with his correspondence," Brehmer said. "And he could draft an ordinance very quickly, because he was so skilled."

Though he took his work seriously, Mr. Bayless didn't take himself too seriously. During every election for city clerk, one write-in vote was cast for Pon Chung, a beloved Carmel original known for fighting fires and sporting a long Chinese queue.

"Everyone knew Hugh Bayless voted for Pon Chung for his own position," Grimshaw said.

Mr. Bayless was born Oct. 3, 1917, in Iquique, Chile,

See **BAYLESS** page 19A

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Police & Sheriff's Log

Meat and booze shoplift averted

HERE'S A look at some of the significant calls logged by the Carmel-by-the-Sea Police Department and the Monterey County Sheriff's Department last week.

SUNDAY, DECEMBER 22

Carmel-by-the-Sea: Driver stopped at

Ocean and Carpenter for a mechanical violation and a records check indicated he was unlicensed. Two passengers were also unlicensed, so the vehicle was towed and the driver was cited.

Carmel-by-the-Sea: Assisted a Junipero resident who has been without gas and electri-

cal service since 07/02. Contacted a subject, who assisted with reconnection of services as well as minor repairs to a fence and porch.

Carmel-by-the-Sea: Driver stopped at Hatton and Ocean for driving under the influence with a blood alcohol content over .08 percent. Male suspect, age 28 and a Honolulu, Hawaii, resident had one prior DUI conviction.

MONDAY, DECEMBER 23

Carmel-by-the-Sea: Motorist went to pass a double-parked tractor-trailer rig on Seventh at Dolores when a Fed Ex delivery vehicle drove into his direction of travel. The Fed Ex driver became angry and exchanged words with the motorist concerning who had the right of way. Advised motorist to contact Fed Ex. Located and contacted the Fed Ex driver, who said he yielded to one vehicle and then honked at the driver of the van to back up and move out of his way. He said he did not use harsh terms and

complied to back up to alleviate any confrontation.

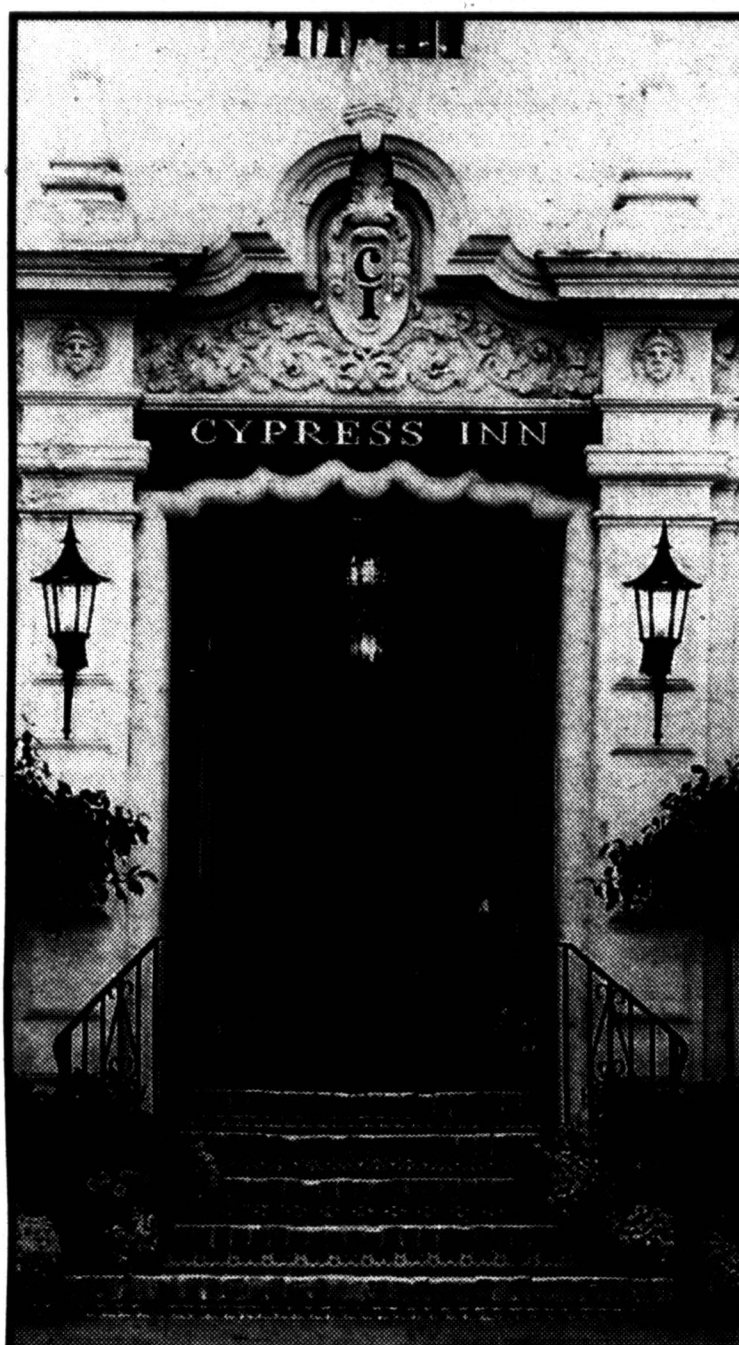
Carmel-by-the-Sea: Female reported some missing property from her Dolores store. She said on Monday 12/16/02 a turquoise necklace with a carnelion medallion valued at \$285 was noticed missing. On Saturday 12/21/02 another turquoise and silver necklace valued at \$285 and another at \$89 were also missing. She had no idea of who might have taken the property or how it came to be missing.

Carmel Valley: Controller at Carmel Valley Manor reported that a subject cashed a company check for \$1,172.50 that was originally made out to a supply company.

Carmel Valley: Brookdale Drive resident reported an unknown suspect stole two chainsaws out of his tool shed.

Carmel Valley: Bookkeeper at Baja Cantina reported she received a suspicious let-

See **POLICE LOG** page 9B



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BONUS ROUNDS BY RICHARD SILVESTRI / EDITED BY WILL SHORTZ

ACROSS

- 1 Partial
7 Boxing prize
11 Area next to an ambulatory
15 Natural emollient
19 And others, to Ovid
20 "A loaf of bread ..." poet
21 Victim
22 Tip off
23 Precious strings
24 Dentist's jazz band?
27 Many a cabbie
28 Like tongues of fire
29 Intrepid
30 Student of Seneca
31 Alitalia destination
33 Test material
34 Picked-up item
36 Mason's makeover?
41 Box
46 Millstone
48 Doily shade
49 Turn on a pivot
51 Holmes, "From Here to Eternity" wife
52 Pub competition
54 Two years in the House
56 Longfellow's bell town

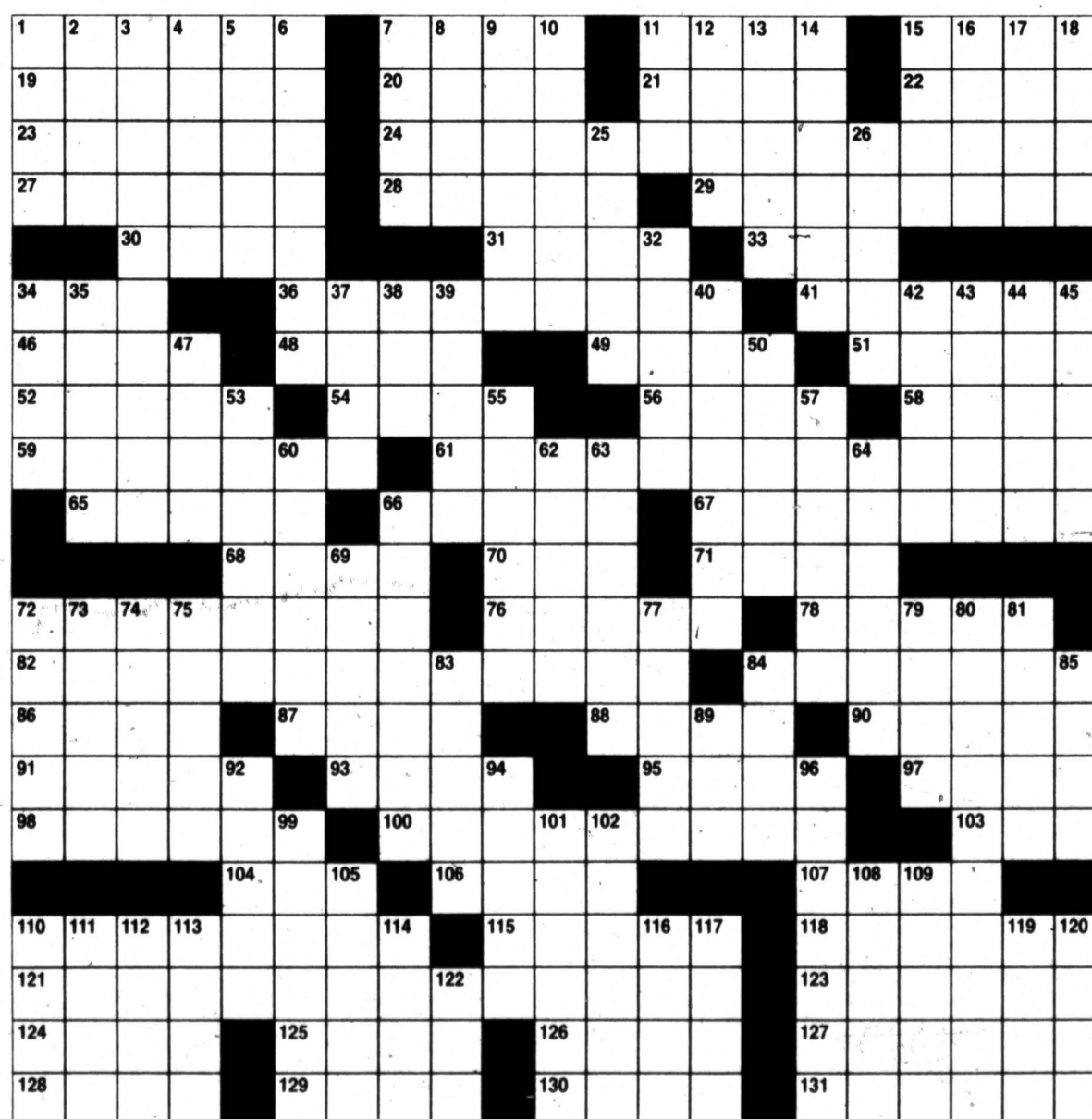
Answer to puzzle
on page 7A

- 58 Transportation with rails
59 Calls the shots
61 Doll-collecting gambler's two favorite things?
65 "Oops!"
66 Not sleeping
67 County office
68 Answer to the folk riddle "Big head, no hair"
70 Confucian principle
71 Overflow
72 Deposit
76 Jackets and collars
78 Italian winemaker Carlo
82 Top-secret turmoil?
84 Secures
86 Offering
87 Jodie Foster film
88 Take off
90 Key of Beethoven's "Eroica"
91 "Peanuts" character
93 Win going away
95 Part of a 58-Across
97 See 44-Down
98 Bygone money
100 Embryonic instrument?
103 Former name of Tokyo
104 Early asylum
106 It holds the line

- 107 Way out there
110 Kind of partner
115 Tiny amount
118 Strauss opera
121 "I think, therefore I wrestle?"
123 Bridal shop section
124 Set down
125 Pig feed
126 Abridge, maybe
127 J. Gaines, who wrote "The Autobiography of Miss Jane Pittman"
128 Auto pioneer Karl
129 Actress Petrova, femme fatale of silents
130 Sherpa sighting
131 Mississippi River explorer

DOWN

- 1 Oscar word
2 The Eagles' "Take the Limit"
3 Biblical ass?
4 Party offering
5 You get down from it
6 Strip
7 Hit on Broadway
8 Literary Ludwig
9 Old Scottish county on the Clyde
10 Earthquake's onset
11 Months
12 Magical sound effect
13 Filled to the brim
14 C₂H₆
15 Roll-call no-show
16 Fancy fabric
17 "Fiery" things, to Shakespeare
18 Genesis son
25 "So Much in Love" singers, 1963, with "the"
26 Nut-case
32 First name in 1950's politics
34 Mike who produced "Around the World in 80 Days"
35 Diarist Nin
37 Gate: Abbr.
38 Dander
39 Reins in
40 Tops at the table
42 Port holders
43 Van Gogh locale
44 With 97-Across, a proverbial monkey's advice
45 Witch's place
47 Suffix with dump
50 Take marks off
53 Beats it
55 Unkempt, in a way
57 Bit of newspaper advertising
60 Enter via keyboard
62 Ranch rope



- 63 Litters
64 Bust
66 Math table entry
69 Surmise
72 Hustle tickets
73 Songwriter Greenwich
74 Some cursing
75 Campaign topic
77 Rope's end, maybe
79 Call at first
80 24th anniversary cookie?
81 Grant-
83 Bull of ads
84 Asia's Sea
85 Normandy battle site
89 Pledge of Allegiance ender
92 Dive in
94 Ragù rival
96 Like newlyweds, often
99 Vocal passage
101 Liverpool's river
102 Rains in the movies
105 Mournful chime
108 Renaissance (old-fashioned festival)
109 English novelist Sillitoe and others
110 Healing sign
111 Spar, e.g.
112 Votin' no.
113 Nabisco brand
114 Drink on board
116 Not orig.
117 Reply to the Little Red Hen
119 Ship timber
120 This, in Taxco
122 3.0, e.g.

Guard imprisoned in Saks elevator

By MARY BROWNFIELD

SAKS FIFTH Avenue security guard Richard Rodriguez thought he was taking a routine elevator ride to the parking garage Dec. 27 as he conducted his final round of security checks that evening. But he ended up spending almost an hour stuck in the little box until Carmel Fire Department personnel freed him.

A parking garage attendant heard the emergency bell in the elevator ringing and called police, according to Carmel Police Officer Jesse Juarez, who arrived first and then called the fire department for help.

"The elevator was lodged between floors so the doors wouldn't open," CFD Shift Commander Bruce Meyer said. "They reset the elevator as they're supposed to do, but it still would not allow the elevator to come to ground level."

The firemen then called an elevator technician who talked them through the steps to bleed pressure from the elevator's hydraulic system.

That did the trick, allowing the elevator to descend and its doors to open.

"He was ready to come out," Juarez said. "I'm sure it's not a good feeling."

VETERAN COP EARNs HIS STRIPES

By MARY BROWNFIELD

CARMEL POLICEMAN Mike Calhoun received great news just in time for Christmas: On Dec. 16, after nearly 20 years with the department, he was promoted to sergeant.

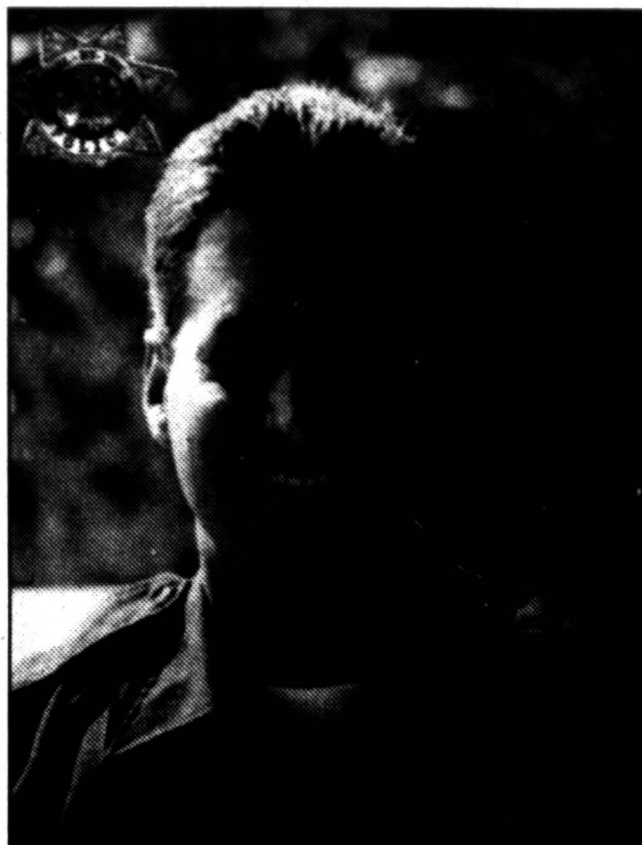
"He's very loyal to carrying out a mission, a guy you can rely on to get things taken care of, and employees can work with him," CPD Chief George Rawson said. "He's a very open, responsive kind of guy."

In the past several months, Calhoun has taken on more of a mentoring role and helped develop the department's mission and performance goals, according to Rawson. He also oversees the firing range.

Calhoun said he's grateful for the opportunity to regularly work one on one with his fellow officers, and he savors the new challenges the supervisory role brings.

With the force since 1984, Calhoun — who lives in Marina with his wife, Teres, and two daughters, Christina and Kendra — was promoted to field training officer 10 years after joining. He was named Officer of the Year in 1990 and 1998, and took the test for sergeant at the department last March.

"It's a challenge, and now that I've been



Sgt. Mike Calhoun

given the opportunity, I can see this is something I should have done a long time ago," he said. The test for sergeant involved an interview, assessment of Calhoun's responses to certain scenarios and situations, writing

assignments and an oral board with officials from several different law enforcement agencies.

The promotion to sergeant was the second in the department last year — Sgt. John Nyunt filled former Sgt. Dan Clark's place last April — but followed a six-year period during which no members of the force were promoted, since the number of high-level positions is fixed.

Calhoun replaces Ken O'Donovan, who retired last year on disability. He now earns \$5,644 a month as opposed to the \$5,300 he was paid as a patrol officer.

Although he officially received his stripes a few weeks ago, Calhoun served as acting sergeant for several months, giving Rawson ample opportunity to watch how he handled the new responsibilities.

Rawson said he liked what he saw and hailed Calhoun as one who backs up his words with action.

"Since he's been an acting sergeant, he has worked fervently to help me create teamwork, innovation and an attitude of professionalism," Rawson said. "He's done a lot to help advocate a good work ethic and when you have all that, you're in good shape."

RIO RUN

From page 1A

The popular event has grown into a tradition for many runners and a training race for others. Veteran runner Philo Short, who ran his 100th marathon at Big Sur last year, is a frequent participant, as is Carmelite Pierre Defausse, who took special honors for being the fastest — and only — man in the 80-years-old-and-up category for the 3 mile. Two other men ran in the 80-plus category in the longer race.

"It wouldn't be the same race without him, because everyone loves it when they see him out there," Lozano said of Defausse, who this year proudly wore his "Vintage 1917" sweatshirt after the race.

And 11-year-old Matt Lozano, who was only three months old when his mother began helping with the run and has for years arrived with her at 5 a.m. each race day, took second place in his age category for the 6.5-mile run this year.

The Rio Run also attracted numerous first timers, including three Santa Catalina girls aged 7 and 9 who tackled the 3-mile course and Carmel Planning Commissioner Frank Wasko, who plans to run a marathon next year.

One couple honeymooning from Maryland ran together. The newlyweds had come across volunteers setting up for the event New Year's Eve, said they had read about the race in the paper and asked if they could sign up.

"They had a great time," Lozano said.

While participants praised the event — which also included a pancake brunch served by Kiwanis Club of Monterey, a free long-sleeved T-shirt and loads of prizes — Suicide Prevention Service of the Central Coast should be happy, too. The group has already received an unprecedented \$30,000 from sponsors of this year's race, and at least another \$5,000 is expected after the books are closed, Lozano said.

The donation tops last year's record-setting gift by \$10,000.

"It was a phenomenal day," Lozano said.

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COMMERCIAL & RESIDENTIAL PICK-UP

Dam release to boost cost of saving steelhead

By MARY BROWNFIELD

COME MAY, Cal-Am will lower the water level behind San Clemente Dam to help avoid catastrophe in the case of an earthquake. But the sand and silt that gushes

out with the water will require costly work to safeguard the steelhead rearing tanks in Sleepy Hollow, according to biologist Dave Dettman.

He told the Monterey Peninsula Water Management District board of directors Dec.

16 that an estimated \$386,472 will be needed to prevent the grit from entering the rearing channel, improve maintenance and reduce wear on the river water pumps. Suffering from sticker shock, the board voted 7-0 to spend nearly one third that much to design a less expensive fix.

"We're going to authorize up to \$125,000 just for design work?" director Zan Henson asked the biologist.

The money would pay for that and some permits, Dettman assured him.

Time is of the essence because the Sleepy Hollow Steelhead Rearing Facility — with its pump stations, cooling tower, generators, tanks, and control building — must be up and running before Cal-Am can begin lowering the water level behind the dam in May, according to Dettman.

Because there wasn't time to do a normal bidding process, the district simply asked a contractor to devise ways to slow the water and drop the sediment before it gets to the pumps. List Engineering and John F. Otto, Inc., came up with the \$386,000 design/build proposal.

New dam safety requirements

As required by the state Division of Safety of Dams, Cal-Am must lower the water level behind the dam from May to February, then raise it for three months to allow passage of steelhead and ensure healthy habitat for the endangered red-legged frog.

"This is an effort to mitigate an order they made to keep the reservoir level as low as possible because of safety concerns," Cal-Am Vice President Steve Leonard told The Pine Cone. "So it was safety concerns for people balanced against passage for fish and habitat for frogs."

Cal-Am started discussing the safety of the 82-year-old San Clemente Dam with the

DSOD in 1981 and began actively pursuing a seismic retrofit project eight years later, according to Leonard. The EIR on the retrofit has been in DSOD's hands for several years.

"It would have been nice to have the EIR finished, but since then lots of things have happened and we're looking at all sorts of issues surrounding water supply," Leonard said.

Although Cal-Am Senior Project Engineer Fred Feizollahi would not estimate how much sediment would be released in the draw-down of the dam, the contractor predicted 800 pounds each day.

Rescue rethink?

Faced with the prospect of such a huge bill to upgrade a one-of-a-kind facility that has already cost ratepayers hundreds of thousands of dollars and been plagued with setbacks — including too-warm water remedied by a \$350,000 cooling tower, fish-eating ducks fought off with protective netting and silt-damaged pumps repaired this summer — some board members questioned the entire steelhead-rearing effort.

"If we're going to spend so much, someone might step back and say this needs to be redesigned. It's been one thing after another," director Zan Henson commented.

"I don't deny the risk, but the risk associated with not rescuing fish and rearing them somewhere is overwhelming," responded Dettman. "The National Marine Fisheries Service has the biggest hammer."

(The steelhead rearing program is overseen by NMFS and the California Department of Fish and Game. Currently, about half the fish rescued and transported to the rearing facility during dry months survive, according to Dettman.)

See RETHINK page 7A



John Rodgers

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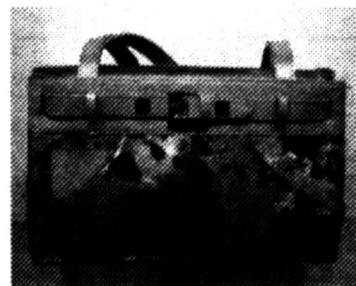
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Carmel Valley

New hunters must ask questions first, then shoot

By MARY BROWNFIELD

BEFORE SHOULDERING their guns and heading out to bag a deer, wild pig, quail, dove or turkey for dinner, new hunters must first learn everything about the sport — from conservation to firearms safety — and Central Coast Fly Fishing's Geoff Malloway can teach it all in eight days.

Malloway's hunter education course satisfies the requirements imposed on first-time hunters by the California Department of Fish and Game, which demands they learn all the ins and outs before getting their hunting licenses.

"I try to make it as hands-on as possible, but I'm probably the only instructor who requires game identification and live firing as part of the program," he said.

Other hunter educators cover the curriculum in 10 to 14 hours, Malloway said, while his class consumes 25. It runs from 6 to 9 p.m. Jan. 28-30 and Feb. 4-7, and from 8:30 a.m. to noon Feb. 8 and 15.

The cost is \$10. (Profit is not allowed.)

"It's all one program, and that in itself weeds out those who won't be ethical hunters," he said, admitting that some less scrupulous folks forego the whole thing and simply hunt without licenses. "Those are the ones we'd like to get our hands on — they give the rest of us a bad name."

The hunters who take the high road will learn about:

- ethics, such as leaving property in perfect shape, remembering to leave gates as they found them, properly identifying game before taking aim, and knowing and following fish and game laws;

- gun safety, including a session of live firing at the Carmel Associated Sportsmen's range on Robinson Canyon Road;

- conservation, which Malloway explained as, "looking at why we are able to hunt certain game animals versus others, talking about population dynamics, discussing the role of the hunter in the environment and that we are essentially just another predator out there, and looking at birth rates and death rates;"

- first aid; and

- game care, such as how to dress meat without waste.

The course is open to 10 to 15 first-time hunters and includes a course handbook and fish and game rule book. The \$10 fee does not include range fees and ammunition. The deadline for preregistration is Jan. 25. For more information, call Central Coast Fly Fishing at 626-6586.

RETHINK

From page 6A

A critic of past rescue attempts, Roy Thomas of the Carmel River Steelhead Association, told the board, "Your responsibility is to salvage these fish that the citizens around here are de-watering illegally. I don't know what options you have other than to find a water supply — preferably more than one."

Before joining his fellow board members in their unanimous vote to approve spending up to \$125,000 on a design and permits, director Dave Potter said, "The underlying issue is: We're going to see modifications to the river and flood plain, the likes of which we've never seen. Sediment needs to be dealt with as we decommission or retrofit the dam."

Asked by the district to help foot the bill, Cal-Am will offer more cost-effective alternatives, Leonard said.

"We thought there were some very good questions raised by the board: Could you build it somewhere else, or take the grit out using foam filters?" he said. "We have a lot of expertise, so we're hoping to come up with a simpler solution."



Before 13-year-old Josh Malloway was allowed to bag his first 200-pound wild pig, he had to know all the rules. His dad, Geoff Malloway, is teaching an exhaustive hunter education course again this year.

PHOTO: GEOFF MALLOWAY

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SENIOR LIVING

Who is that sneaky person going around doing good?

■ Nominations sought for Volunteer Center awards

By MARY BROWNFIELD

QUIET SAINTS who tirelessly help those in need will finally be thanked at the 27th Annual Community Service Awards next month, but before that can happen, the Volunteer Center of Monterey County needs to know who they are. Individuals, organizations, government agencies and businesses should submit their nominations to the cen-

ter by Jan. 22.

The awards trumpet "the difference made by people who are doing some extraordinary things," said coordinator Dorothy Laage. "The volunteer realm is a really good, broad representation of the community, from young kids all the way up to 89 year olds."

The most devoted workers often toil in small organizations and receive little recognition for their efforts, so the awards allow those groups — as well as volunteers' friends and family — to cheer loudly for them and hail their accomplishments.

"I think that's what this is really all

about," Laage said. "It's an opportunity for family members to share and pay respect to the volunteers being honored, people who give up family time to do what they do."

Last year's awards were no exception, especially when volunteers from Dorothy's Kitchen stood up to accept the "Agency Star" — the award which recognizes an entire organization or volunteer group each year.

"Some of them were homeless and receiving help, and then they started helping other people in similar situations," Laage said. "They came over in a bus and it was

marvelous to see. There were probably 20 of them, all dressed as best as they could, and when we read each and every name they were just beaming. There was a room full of 400 people saying, 'You did a great job.'"

And a 12-year-old girl was recognized for her work with elderly Alzheimer's patients.

"She was just this remarkable little girl," Laage recalled. "She wasn't near her own grandparents, and she felt like this was something she could do."

The Volunteer Center is eagerly awaiting reports of other praise-worthy volunteers who could receive the community service awards in several categories:

- Youth Volunteer (under the age of 21);
- Adult Volunteer;
- Senior Volunteer (55 or older);
- Agency Star;
- Unsung Hero (paid agency employee other than the executive director); and
- Corporate Star (business or employee who supports volunteerism).

In addition, the Volunteer Center will recognize one of its own members when it bestows the Rusty Stratton Award.

Nominations must be received by Jan. 22. For more information, contact Volunteer Center Executive Director Vicki Bamman at 757-3206.

The recipients will be recognized at the 27th Annual Community Service Awards set for Feb. 20 from 5:30 to 8:30 p.m. at the Monterey Plaza Hotel, which has hosted the event for 12 years. Attendance is free.

PacRep meets matching challenge — and then some

By TAMARA GRIPPI

PACIFIC REPERTORY Theatre has surpassed its \$40,000 matching funds campaign, which will go a long way toward paying off the company's \$125,000 debt.

"This puts us in really strong position to raise the amount of money we need not only to run next season, but to start attacking our deficit," said PacRep founder and executive director Stephen Moorer.

Moorer said he's still crunching numbers to find out exactly where the theater company's finances stand. PacRep met the matching challenge just before Christmas and in the last week or so received another \$5,000

to \$6,000.

After PacRep recently announced it had been hit hard by the recession, a group of longtime theater supporters stepped forward to offer \$40,000 in matching funds.

Since November, Moorer said the community has really come through for PacRep. "We've seen a range in donations from \$25 to \$5,000," he said. In addition, several anonymous donors have come forward to pay the two-year salary of development and marketing consultant Marcia Hardy, Moorer said.

Now more than ever, marketing is crucial for PacRep, which saw a disappointing decline in ticket sales and donations in the

last year.

In October, the theater was forced to make \$200,000 worth of budget cuts by letting two new employees go and temporarily laying off its entire staff for two months. "We are still in cash-poor mode," Moorer cautioned. "While we continue to pay off our remaining creditors, by no means are we back in the black and don't need any help."

PacRep's 2003 season will open Feb. 23 with a performance of Robinson Jeffers' "Medea" at the Golden Bough Playhouse. "We had a real coup in getting Joseph Chaikin, an internationally renowned theater director, to come here and do Medea," Moorer said.



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I. Call to Order

II. Roll Call

III. Pledge of Allegiance

IV. Extraordinary Business

- A. Introduction of newly promoted Senior Maintenance Worker, Jesse Garibay.
- B. Introduction of newly promoted Maintenance Worker, Ryan Llorin.
- C. Introduction of newly promoted Police Sergeant, Mike Calhoun.
- D. Introduction of Tree Care Specialist, Dave Maschmeyer.

V. Announcements from Closed Session, from City Council Members and the City Administrator

- A. Announcements from Closed Session
- B. Announcements from City Council representatives on outside agencies
- C. Announcements from the City Administrator
 - Receive the Audit Report from Bob McDonald of Ryan, McDonald and Kincheloe for Fiscal Year end 2002.

VI. Appearances

VII. Consent Calendar

- A. Ratify the minutes for the meetings of October 10, November 5, November 12, November 14, November 19, December 2, and December 3, 2002.
- B. Ratify the bills paid for the month of December 2002.
- C. Adopt Resolution No. 2003-01 extending the Facilities and Equipment Use Agreement between the Carmel Unified School District and the City of Carmel-by-the-Sea.
- D. Adopt Resolution No. 2003-03 approving co-sponsorship, on an annual basis, with the Library Board of Trustees and the Carmel Public Library Foundation, of annual donor salute and their donor reception events.
- E. Adopt Resolution No. 2003-04 creating a deposit account to receive donations covering the cost of a time capsule commemorating the Sunset Theater renovation.

VIII. Public Hearings

- A. Consideration of Ordinance No. 2003-01 amending Title 15 and Title 17 of the Municipal Code. The ordinance would modify the definition of demolition and establish a new definition for rebuilding. [First Reading]
- B. Consideration of Ordinance No. 2003-02 amending Title 3, Chapter 3.12 of the Municipal Code regarding the City's Purchasing System. [First Reading]

IX. Ordinances

- A. Consideration of Ordinance No. 2002-10 amending Title 17, Chapters 17.18, 17.24 and 17.40 of the Municipal Code regarding R-1 development standards, procedures, definitions and findings related to project approvals and Track-3 projects [Second Reading].

X. Orders of Council

- A. Consideration of an Encroachment Permit application appeal filed by Paul and Jeanet Sivas for property located at the southwest corner of San Antonio and Ocean Avenue.

CONTINUED FROM DECEMBER 3, 2002.

XI. Resolutions

- A. Consideration of Resolution 2003-07 approving the transfer from unexpended account balances at year-end 2001/02 to be transferred back to fiscal year 2002/03 budget for project completion.
- B. Scheduling of future Council meetings - please bring your date books.

XII. Adjournment

The next meeting of the City Council will be held in the City Hall Council Chambers are scheduled for:

SPECIAL MEETING

Thursday, January 9, 2003 • 4:00 p.m. • City Hall Council Chambers

THE REGULAR MEETING

Tuesday, February 4 2003 • 3:30 p.m. • City Hall Council Chambers

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SENIOR LIVING

BLANDING

From page 1A

Pine Cone edition.

Markle, aided by Don Stewart of Carmel Highlands — also a Blanding aficionado — curated and co-hosted an impressive exhibit of their combined collections of Blanding's works and memorabilia in September 2000 at First Murphy House under the auspices of the Carmel Heritage Society. Markle also presented a lecture entitled, "Carmel's Vagabond — The Legacy of Don Blanding." The presentation drew a host of admirers of Blanding, including some who knew him personally and others who had corresponded with him. Blanding died in 1957.

During the two years following the exhibit, Tom Markle continued to search for materials Blanding might have left in Carmel or given to any of his many friends here.

Blanding often stayed at Vagabond's House Inn on Fourth Avenue and Dolores during his many visits through the years. When inn manager Dawn Dull heard Markle was searching for Blanding memorabilia, she looked for a box of items a former owner and a former manager of the inn remembered from years before. Dull searched the inn, now owned by Denny LeVett, and found it in a basement area — just where the former manager recalled she had seen it — untouched since it had been stored there years before. She telephoned Markle who drove down from Vacaville, excited at the find.

The box was indeed full of Blanding's items. When Markle and Dull unpacked it, they found the manuscript of Blanding's only unpublished book, "No Strings on Tomorrow." Markle has since read it and termed it a sort of "philosophical thesis," unlike any of Blanding's 19 books of poetry and two novels. The manuscript is held together by four binder rings, and the cover art is a pen-and-ink sketch of graceful trees in winter reflected in a stream.

Also in the box was a scrapbook — with a 1940s cover photograph of Blanding — containing clippings of newspaper and magazine articles about the poet, and photographs of Blanding's various homes in Carmel. Magazine articles by Blanding were also found in the box, as well as two wood-blocks representing women's faces carved by Blanding, 20 of his bookplate illustrations, "lots of note cards — at least a dozen different original designs," according to Markle, pen-and-ink and brush-and-ink drawings Blanding created for The Carmel Pine Cone, pages and pages of original art — illustrations for his books with handwritten notations to the printer — work by his art class students, and even a 1950 Tempo Records album of Blanding reading 12 poems from his first book published in 1928, "The Vagabond's House" which took the Western world by storm. The record cover is illustrated with one of Blanding's original drawings.

Markle is one of more than a hundred Blanding aficionados who communicate with one another through a website. In the process of writing a book about Blanding, Markle is devoting his retirement years to researching any lead he comes upon in pursuit of Blanding history. Markle was a juvenile probation officer for 32 years in Solano County and "is loving every minute" of his retirement dedicated to tracking down pieces of Blanding's works. His plan is to donate all the material he has collected to a museum for safe keeping. So far he has narrowed his museum selection to two.

He invites anyone who has personal information about Blanding to contact him through his e-mail address: tjmarkle@earthlink.net, or to telephone him at (707) 448-4025.

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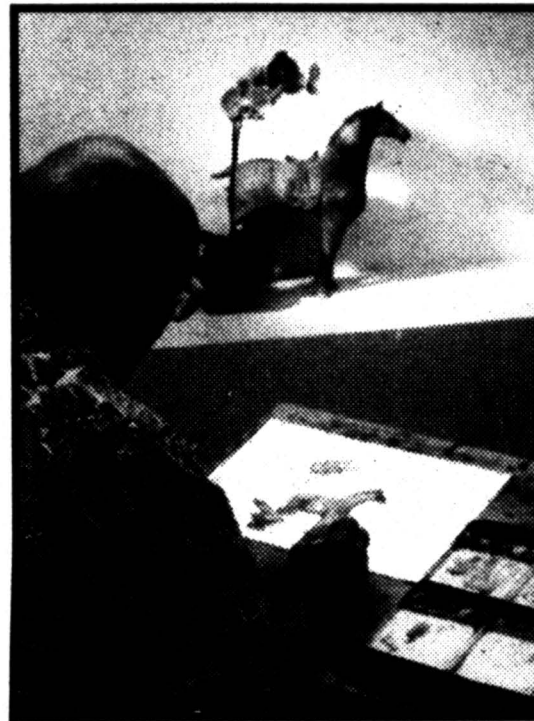
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M I L E S T O N E S

AYCA FATMA DUTERTRE, 45, died at Community Hospital on Dec. 21. She was the Academic Specialist of Middle East School Two at the Defense Language Institute, where she had been a member of the faculty for 23 years.

Mrs. Dutertre, a native of Izmir, Turkey, was born Jan. 21, 1957 and immigrated to San Jose



in 1976 at the age of 20. She received her Master's degree in linguistics from the Monterey Institute of International Studies.

Mrs. Dutertre was a consummate hostess who enjoyed entertaining and cooking for her family and friends in her Monterey home, bringing joy to all

such occasions. She also took great pleasure in traveling the world over with her husband, Casanova Restaurant Executive Chef Didier Dutertre and daughter Jeylan, both of Monterey.

Other survivors include her mother, Muzeyen Kayhan and her grandmother, Fatma Kayhan, both of San Jose, an uncle in Turkey and an aunt in Santa Clara.

Contributions are suggested to the Community Hospital Foundation, Intensive Care Unit, P.O. Box HH, Monterey 93942.

Clayton; and one sister, Beverly Chapman.

Contributions are suggested to Meals on Wheels or the donor's favorite charity.

HARRIET GRIFFITH MADDEN died

Nov. 24 just 20 days after her 101st birthday.

Mrs. Madden was born to William and Clara Hardy Griffith in Santa Barbara. She graduated from Santa Barbara Girls School, attended Vassar and graduated from the University of California at Berkeley in 1925.

At Cal, she majored in English but also concentrated on landscape architecture. She was a second generation member of Delta Gamma fraternity.

She pursued her love of horticulture, design and painting after her marriage to George Donald Hodgson in 1927. They lived in Salinas, then moved to Carmel, where they raised their two children. In the early years she designed a number of gardens of government and residential buildings in Salinas and Carmel.

She was divorced in 1947. Five years later she married Thomas Chester Madden.

They lived in Carmel Valley, Palo Alto, Santa Cruz, and Morgan Hill.

During the Maddens' 48 years of marriage, they enjoyed their extended family and cruises and motor trips to Southern California, the Southwest and Mexico.

She continued painting into her 90s. And always, wherever she lived, her first priority was a beautiful garden.

Mrs. Madden was predeceased by her son, William G. Hodgson, in 1987 and her husband in 2000. She is survived by her daughter Ann Clarke of Mill Valley; her step-daughters Eugenie Watson of Los Altos and Meredith Moore of Sunnyvale; and daughter-in-law Carol Hodgson of Pebble Beach.

She is also survived by grandchildren William, Robert, Christian and Susan Clarke; Phillip and Donald Hodgson and a step-grandchild, Eugenie Ann Moore. She is also survived by 11 great grandchildren and one step-great-grandchild.

The family wishes to thank Molini Hoko for her loving care of Mrs. Madden for the past year and a half.

Remembrances may be sent to the San Martin Presbyterian Church or the donor's favorite charity.



CONNIE WEISSMULLER, who

passed away Nov. 4, 2002, will be honored at a memorial mass at 2 p.m., Friday, January 3 at the Carmel Mission, Carmel-by-the-Sea.

Mrs. Weissmuller was for many years both docent and office voice of the Robinson Jeffers Tor House in Carmel.



JACK T. CLAYTON, a longtime driver for Meals on Wheels and supporter of Carmel High School athletic programs, died Dec. 13. He was 87.

Born in Salt Lake City, Utah, he lived in Carmel for 51 years.

Mr. Clayton graduated from the University of Utah in 1937, where he received his bachelor's degree in engineering and was a nationally ranked swimmer. He served as a colonel in the Army Field Artillery during World War II and received a Bronze Star for his service in Italy.

A devoted family man, Mr. Clayton was also a member of the Carmel Masonic Lodge, San Jose Scottish Rite, Islam Shrine, Monterey Peninsula Shrine Club and the Monterey Demolay.

He is survived by a son, Doyle, of Carmel Valley; daughter Phyllis Ridling of Santa Barbara; sister Louise Dubofsky of Washington; grandchildren Trina of San Francisco, Tiffany Buraglio of Carmel Valley, Natalie Ridling of Santa Barbara; and great-grandchildren Dominic and Sophia Buraglio of Carmel Valley.

He was preceded in death by his wife, Mary; two brothers, Hyde and Mark

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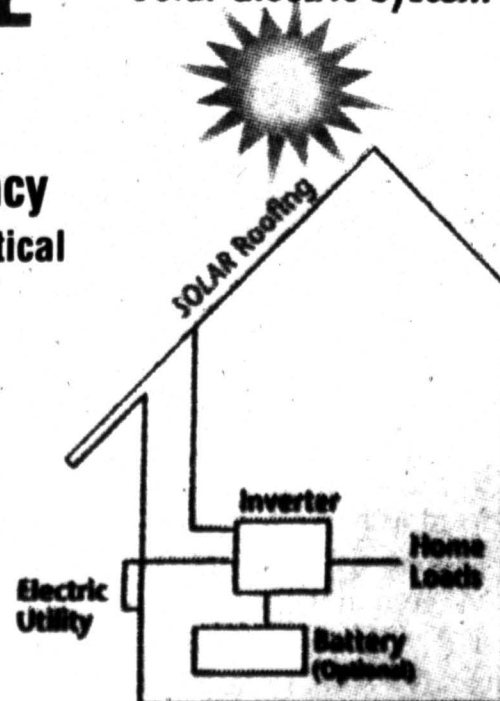
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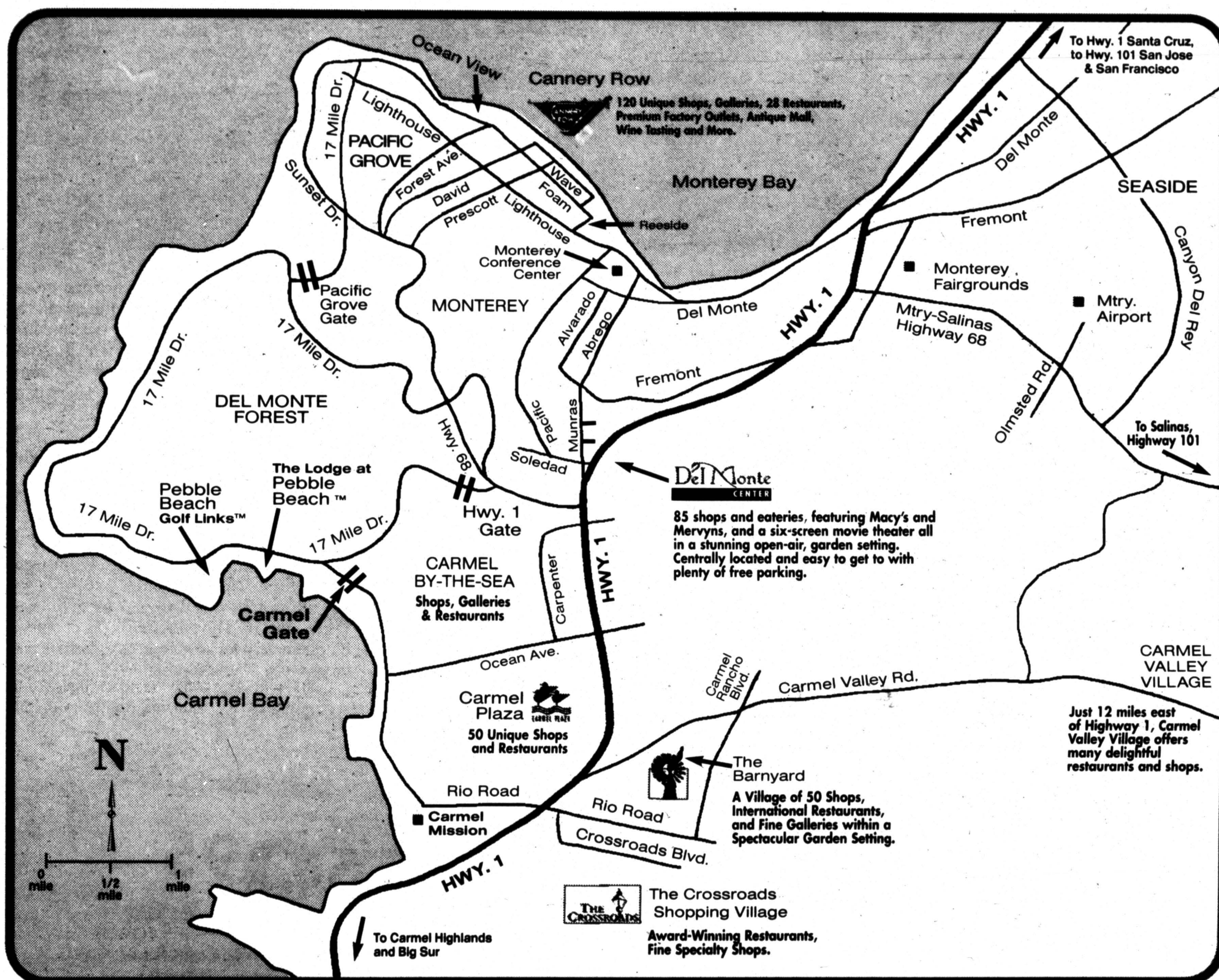
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This Week

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 Fourth Ave. Pasta ...13A
 Il Fornaio15A

CARMEL VALLEY
 Shnarley's19A

MONTEREY
 Casa Cafe
 at Casa Munras Hotel ...12A
 Monterey Fish House 12A

PACIFIC GROVE
 Fandango12A

Fat paintings of juicy coast open at CAA

NEW DICK Crispo works in oil will be featured at the Carmel Art Association beginning Jan. 3.

The paintings are inspired by energy in nature and "celebrate my love of fat, rich painting and the juiciness of our coast," the painter said.

Artists Gail Reeves and Sally Fox Sanders will also be featured.

A reception is set for 6 to 8 p.m. Saturday, Jan. 4 at the Carmel Art Association on Dolores St. between Fifth and Sixth avenues, Carmel-by-the-Sea.

For more information, call 624-6176.



YOUNG GIRL, GOROKA, HIGHLANDS/PHIL RASORI

Phil Rasori captures tribal New Guinea

"ENDANGERED CULTURES: Portraits from Tribal New Guinea" — an exhibition of fifty large color photographs of tribal ceremonial dress — will be on display through March 2 at the Pacific Grove Museum of Natural History. Dr. Phil Rasori, a photographer of indigenous people for over 20 years, has made five trips to New Guinea. His photographs have been exhibited in prestigious museums throughout the country and focus on the beauty and complexity of tribal adornment in New Guinea's highlands. The museum is located at Forest and Central, Pacific Grove.

Feng Shui that garden! La Playa speaker tells how at luncheon

By MARGOT PETIT NICHOLS

BECKY SANDMAN, feng shui consultant, will instruct on the art of creating an empowering garden environment through the use of feng shui. Sandman believes home gardeners can increase their energy, and stay focused and relaxed at home by applying the ancient system for harmonious living to the garden area.

A complimentary wine reception and a special three-course luncheon is planned from 11:30 a.m. to 2 p.m. on Thursday, Jan. 16 at the Terrace Grill Restaurant in the La Playa Hotel, Eighth and Camino Real. Cost of the lunch and lecture is \$25 per person. Space is limited. For advance reservations, call the grill at 624-4010.



Eliane Brent Wakefield solos

"Local Color," A solo show by artist Eliane Brent Wakefield, opened this week at the Unitarian Universalist Church of the Monterey Peninsula, 490 Aguajito Rd., Carmel. The show runs through February 10 and can be viewed from 9 a.m. to 1 p.m. and from 2 to 5 p.m. Monday through Friday. For information, call 624-7404.

THE BOOKSHELF

Rosamond's tragic Big Sur drowning; Investigating the real Tahiti

BOOKS CONTINUE to flow in, about one per day, inundating our newsroom desk. We have taken to stacking them on a sort of buffet/highboy in back of the desk, and it, too, has taken on the look of a bookstore run by a sloppy member of the literati.

Be that as it may, heroic efforts are made to read all those that are written by Monterey Peninsula writers or which have our geographic area as background.

This week, we will discuss briefly two books that have nothing whatsoever in common. One is written by a Carmel resident, while the other is about a world-famous Carmel artist.

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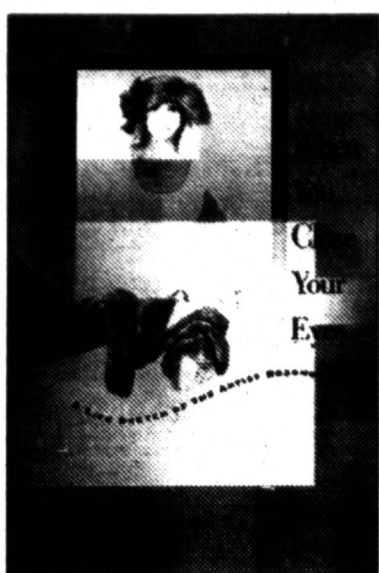
"WHEN YOU Close Your Eyes" by Tom Snyder is a life sketch of the artist Rosamond, whose stunning graphic art captured an international market in the mid-'70s. Rosamond's name was Christine Rosamond, but she dropped her first name and used only Rosamond as her signature. Despite her tragic drowning death off the rocky coastline of Big Sur in 1994, her artwork continues to sell well at the Carmel-by-the-Sea gallery that bears her

name in The Court of the Fountains off Mission Street. Her subjects were almost always children, her family, but primarily herself. She was a stunning woman whose beauty translated well in her drawings.

Tom Snyder, himself a graphic designer and photographer, is also trained in human behavior with a doctorate from UCSC. He has worked with disabled children and adult survivors of childhood abuse. With this background,

he has written a sensitive biography of the young woman who suffered much trauma in her early years and who later fought the pull of alcohol. Using some autobiographical notes, a few brief interviews, unfinished letters and personal notes, Snyder has pieced together Christine's life. It is the first book to do so, and is authorized by her estate.

Snyder covers Christine's life sympathetically, holding back little. At the time of her death at the age of 46, Christine had been clean and sober for a year. She was happy and in control of her life when she and her little



daughter Drew, her sister and nephew ventured down a bluff to some tide pools below. It was only a matter of moments that Christine turned her back on the ocean briefly, and disappeared into the sea.

Black and white photographs of Christine and her family appear in the 205-page hardcover book, which is published by Rosamond Publishing, Carmel-by-the-Sea, with gallery owner Stacey Pierrot as publisher. It

retails for \$24.95 at the gallery and from Barnes & Noble and Amazon.com.

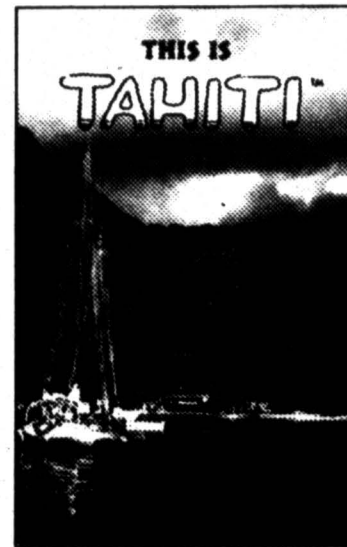
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The second book this week is a slim trade paperback of 102 pages with a lovely cover photograph by the author. The book is **"This is Tahiti"** by Norman McBride, Jr. of Carmel-by-the-Sea who happens to be in the black pearl trade. He and his wife became infatuated with that exotic and beautiful South Pacific island, and through subsequent trips have come to know Tahiti inside and out.

This is primarily a book of storytelling, of happenings and of sharing personal experiences of their many trips to Tahiti. Norman and Leona have ventured forth from all the tourist safe places, into what Norman terms the "mercurial paradise" known to Tahitians and seldom seen by visitors.

If you're planning a trip to Tahiti, this is a must-read. The book is a fun, easy read in a chatty style, and it also briefly covers Bora Bora, Moorea, Raiatea and Huahine. It is published by Park Place Publications, Pacific Grove, and retails for \$9.95.

You will find it in the travel section of local bookshops.



□□□

IMAGINE FRIENDS of Pacific Grove Library receiving a \$2,750 donation from actor **Paul Newman** — out of the blue! That's exactly what happened in December. Board members said the check was not solicited, but was sent "at the suggestion of Susan Newman — with every good wish for continued success in your worthy endeavors." The Friends will put the donation toward its community room building fund project.

□□□

ONLY THREE weeks left to submit an entry in the Monterey County Film Commission's Hollywood Connection 2003 Screenwriting Contest, with the final deadline for post-marked entries extended to Jan. 31, 2003. A \$2,000 first prize is offered in the contest. Additionally, a \$1,000 prize will go to the top screenplay featuring Monterey County locations. Rules for the full-length film or television movie script and entry forms can be downloaded from the commission's website: www.filmmonterey.org. There is a \$55 entry

fee. The commission can be contacted at 646-0910.

□□□

NATIONAL LEAGUE of the American Pen Women, Inc. will have a number of their **Carmel-by-the-Sea branch** members represented in the Seaside city hall's Walter Lee Avery Gallery located at 440 Harcourt. The exhibit will be up from January 6 to 28, with a public reception for the artists to be held from 7 to 8:30 p.m. Friday, Jan. 10. The NLAPW is the country's oldest society for women artists, writers and composers; it was founded in the late 1900s by the niece of poet Henry Wadsworth Longfellow.

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- Score a shallow line around each apple (so they don't burst when cooking) and place in a baking dish.
- Stuff with raisins and pour the soaking liquid on top.
- Pour a little ginger ale in the baking dish, cover loosely with foil and bake for 45 min. to 1 hr. at 375F.
- Serve either as an accompaniment to the main dish or as a dessert with Double Devon Cream. Delicious!



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PHOTO: LYN WHITING

AN ELEGANT and exciting selection of romantic songs from all-time favorite Broadway musicals will be presented at the Magic Circle Center for the Arts at 7:30 p.m. Friday and Saturday, Jan. 10 and 11, and at 2 p.m. Sunday, Jan. 12.

Directed by Lyn Whiting, the "Broadway Musical Revue" will feature local singers Jennifer Lister, Richard Boynton, Keith Wolhart and Phyllis Davis with live keyboard accompaniment by Barbara Souza. Tickets are \$20. The theater is located at 8 El Caminito in Carmel Valley Village.

For information and reservations, call 659-1108.

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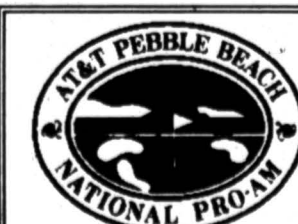
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■ Magic Circle needs thespians ■ Masters seek green thumbs

By MARGOT PETIT NICHOLS

ASPIRING YOUNG actors are sought for a fun-filled ten-week actors workshop beginning Jan. 22 at the Magic Circle Center for the Arts, 8 El Caminito Rd., Carmel Valley.

Youngsters 8-14 will be given instruction in vocal training, body movement and awareness, improvisation, scene study, text analysis and interpretation, and a final performance of rehearsed scenes from "Harriet/Harry the Spy" and other favorite stories.

The winter/spring schedule runs from Jan. 22 to March 26 from 3:30 to 5:30 p.m. on Wednesdays. Classes are limited to 15. Tuition is \$150 per student, but some scholarships are available, according to instructors Dawn Flood and Laura Cote. For information call 659-1108.

HERE'S YOUR chance to become a master gardener. Training by experienced, professional educators in a wide range of horticultural areas is offered by the Monterey Bay Master Gardener program beginning in late January. Sessions are held three Saturdays a month.

To become a certified master gardener, 30 hours of volunteer time are required helping people in the community with gardening questions, providing support at community events and working with other master gardeners on current gardening projects.

Cost of the training program, including classes, books and reference materials, is \$125. For information, call the Master Gardener hotline, 763-8007 between 9 a.m. and noon Monday, Wednesday or Friday.



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THE CARMEL FOUNDATION

invites you to a sneak preview of Carmel's plans to celebrate its 100th Anniversary in 2003. Mayor Sue McCloud will be presenting the plan on Wednesday, Jan. 8 at 2:30 p.m. in Diment Hall, Eighth & Lincoln, Carmel. Refreshments follow presentation. For more information, contact Lisa Coburn 624-1588.

PLAY BRIDGE IN CARMEL every Wednesday from 1 p.m. at Carmel Woman's Club, San Carlos at Ninth Avenue. This is a duplicate game sanctioned by the A.C.B.L. - Singles welcome (call ahead). 625-4307.

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Stunning array of local history lectures announced

By MARGOT PETIT NICHOLS

WRITERS, ARTISTS, Big Sur residents of the '40s and '50s, and early Carmel-by-the-Sea Bohemians will all be the subjects of five remarkable programs planned as the 2003 Henry Meade Williams Local History free lecture series here.

All but one will take place in Harrison Memorial Library's Park Branch Local History Department, Sixth and Mission, Carmel-by-the-Sea, and three of them will be presented twice on their scheduled days so that as many who are interested will be able to attend. All will take place on a Monday.

The first is an art exhibition, rather than a lecture, and is scheduled from 2 to 4 p.m., Jan. 27 when Japanese prints from the Ella Reid Harrison Collection will be displayed. The collection is part of the permanent collection of Harrison Memorial Library and includes work from the late 1700s to the early 1900s. Early books from Mrs. Harrison's collection on Japan will also be on view. This is a rare showing — a unique opportunity to view these exquisite works on paper.

The life and work of short story writer and journalist James Hopper will be dis-

cussed in a lecture, "I, The Foam of Earth," by Kathleen Gakle at both 10:30 a.m. and 2:30 p.m. on Feb. 24. Hopper moved to Carmel in the early days of poet George Sterling and author Mary Austin. Gakle has recently completed her master's thesis on Hopper and will discuss his life and work. Little has been written of Hopper, so this lecture will fill in some blanks about one of Carmel's early writers.

Local art and architecture historian Kent Seavey will ask, "Who Put the 'B' in Bohemians?" with his discussion of Monterey Peninsula artists from Tavernier to Ariss at both 10:30 a.m. and 2:30 p.m. on March 31.

Seavey contends it was the mild climate, beautiful environment and easy lifestyle of the Monterey Peninsula that drew artists to its shores from the very early days of settlement. These colorful characters — the Bohemians — who established the Monterey area as a mecca for artistic freedom of expression will be his prime topic.

The Carmel Woman's Club at San Carlos and Ninth will be the venue for Linda Grant's talk, "A Daughter of the Sur" at 7 p.m. April 28. Grant, who is from the Bay Area, will tell what it was like to be uprooted from her childhood urban life and trans-

planted to a cottage at cliff's edge in the wilds of Big Sur during the late 1940s and early 1950s. There were no telephones or electricity on the South Coast in those days. How she and her family coped will provide an evening of fascinating revelations. Grant's memoirs will soon be published.

Concluding the 2003 lecture series will be a discussion by Melissa and Joel Pickford of their watercolorist father, Rollin Pickford, his life and work, at 10:30 a.m. and 2:30 p.m. on May 19. Rollin Pickford, who lives and

taught for many years in Fresno, makes a pilgrimage to the Monterey area each summer when the heat is unbearable in Fresno. In this way, his body of work comprises rural scenes of the San Joaquin Valley, and coastal seascapes of the Central Coast. He works in abstract, expressionism, and impressionist styles and much of his work is in private collections and public institutions. He was afforded a solo show at the Carmel Art Association, of which he is a member, in the year 2000.



"Shoki, the Demon Queller," by Toyohiro, circa 1785 (detail).

Fest seeks performers

PINE CONE STAFF REPORT

THE SEVENTH annual California Performing Arts Festival — formerly known as Carmel Performing Arts Festival — is accepting performer applications for the 2003 season, according to Robin McKee, producing artistic director.

Any performing artists or groups are invited to apply for inclusion in this year's festival, which is tentatively scheduled for Oct. 15 through Oct. 26. McKee said she is particularly looking for street performers in addition to performers who like traditional venues.

All applications will be considered, but any one or group wishing to participate must submit applications and proposal packages by the Jan. 23 due date, and late submissions will not be considered. Final offers will be made to selected performers by May 2003.

For information, or to request an application, call 642-9040.

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Complete text of appeals court ruling on the coastal commission

Editor's note: The following is the decision of the California court of appeal, released this week, that the coastal commission is unconstitutional. A story about the decision appears in page 1A.

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

MARINE FORESTS SOCIETY et al.,
Plaintiffs and Respondents,

v.

CALIFORNIA COASTAL COMMISSION et al.,
Defendants and Appellants.

APPEAL from a judgment of the Superior Court of Sacramento County, Charles C. Kobayashi, J. Affirmed.

The Zumbrun Law Firm and Ronald A. Zumbrun for Plaintiffs and Respondents.

Sheppard, Mullin, Richter & Hampton, Joseph E. Petrillo, David P. Lanfeman, Thomas D. Roth, Peter F. Zibblatt for the Home Builders Association of Northern California, The California Building Industry Association, The Building Industry Legal Defense Foundation, The Building Industry Association of San Diego and The California Association of Realtors; M. Reed Hopper and Anne M. Hayes for Pacific Legal Foundation; Jenkins & Hogin, Christi Hogin and Gregg Kovacevich for the City of Malibu; Berger & Norton and Michael M. Berger for Signal Landmark and Hearthside Homes as Amici Curiae on behalf of Plaintiffs and Respondents.

Bill Lockyer, Attorney General, Richard M. Frank, Chief Assistant Attorney General, J. Matthew Rodriguez, Senior Assistant Attorney General, Joseph Barbieri, Supervising Deputy Attorney General, and Lisa Trankley, Deputy Attorney General, for Defendants and Appellants.

The California Coastal Commission (the Commission) is the "state coastal zone planning and management agency" with the primary responsibility for implementing the provisions of the California Coastal Act of 1976. (Pub. Resources Code, §§ 30300, 30330; further section references are to the Public Resources Code unless otherwise specified.) It consists of 12 voting members, 4 appointed by the Governor and 8 appointed by the Legislature, who serve two-year terms at the pleasure of their appointing authorities. (§§ 30301, 30301.5, 30312.) The Commission acts by vote of a majority of its appointed members. (E.g., §§ 30333, 30512.)

When the Commission notified Marine Forests Society (Marine Forests) that it intended to commence cease and desist proceedings regarding Marine Forests' experimental man-made reef on the ocean floor off of Newport Harbor in southern California, Marine Forests filed an action seeking to enjoin the Commission from doing so. Marine Forests claimed, among other things, that the Commission did not have the authority to issue cease and desist orders or to grant or deny permits for coastal development because the scheme for appointment of its voting members gives the legislative branch control over the Commission, thus impermissibly interfering with the Commission's executive branch responsibility to execute the laws.

The trial court held that the ability of the Senate

'The flaw is that the unfettered power to remove the majority of the Commission's voting members, and to replace them with others, if they act in a manner disfavored by the Senate Committee on Rules and the Speaker of the Assembly, makes those Commission members subservient to the Legislature.'

Committee on Rules and the Speaker of the Assembly to remove a majority of the Commission's voting members at the pleasure of those appointing authorities effectively makes the Commission a "legislative agency." Therefore, the court enjoined the Commission "as a legislative body . . . from exceeding its jurisdiction and violating the Separation of Powers Clause of the California Constitution [Cal. Const., art. III, § 3] which precludes it from granting, denying or conditioning permits or [from] issuing and hearing cease and desist orders." The Commission appeals. (Code Civ. Proc., § 904.1, subd. (a)(6).)

For reasons that follow, we conclude that the Commission's interpretation and implementation of the California Coastal Act of 1976 is an executive function, and that the appointment structure giving the Senate Committee on Rules and the Speaker of the Assembly the power not only to appoint a majority of the Commission's voting members but also to remove them at will contravenes the separation of powers clause of California's

Constitution. The flaw is that the unfettered power to remove the majority of the Commission's voting members, and to replace them with others, if they act in a manner disfavored by the Senate Committee on Rules and the Speaker of the Assembly makes those Commission members subservient to the Legislature. In a practical sense, this unrestrained power to replace a majority of the Commission's voting members, and the presumed desire of those members to avoid being removed from their positions, allows the legislative branch not only to declare the law but also to control the Commission's execution of the law and exercise of its quasi-judicial powers.

Accordingly, we shall affirm the judgment. We emphasize, however, that Marine Forests made a timely separation of powers objection and pursued its remedies in a timely manner. We do not address the rights and interests of other parties to prior actions of the Commission.

BACKGROUND

The California Coastal Act of 1976 (the Coastal Act) (§ 30000 et seq.) is a comprehensive scheme governing land use planning for the entire coastal zone of California. It contains specific policies pertaining to public access (§§ 30210-30214), recreation (§§ 30220-30224), the marine environment (§§ 30230-30237), coastal resources (§§ 30240-30244), and various categories of development, including residential, industrial, port, and energy facilities. (§ 30250 et seq.) In sections 30001, 30001.5 and 30004, the Coastal Act sets forth detailed recitations of legislative goals that (1) declare the need to protect the distinct and valuable natural resources of California's coastal zone, (2) state that planned development of the coastal zone is essential to the economic and social welfare of the people of this state, (3) advocate the protection, maintenance, and balanced development of the coastal zone environment, (4) seek to maximize public access to the coast consistent with sound resources conservation as well as the constitutional protection of private property rights, (5) encourage local and state initiative and cooperation in planning coastal use, and (6) declare that, in order to achieve maximum responsiveness to local conditions, it is necessary to rely heavily on local government and local land use planning procedures and enforcement while (a) providing for maximum state involvement in federal activities, (b) protecting regional, state, and national interests, and (c) coordinating the many agencies whose activities affect the coastal zone.

The Coastal Act established the Commission as a permanent regulatory body invested with the primary responsibility to ensure continued coastal planning and management through implementation of the provisions of the Coastal Act. (§ 30330.) The Commission may exercise all the powers set forth in the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) or in any other federal act that relates to the planning or management of the coastal zone. (§ 30330.) It is authorized to promulgate regulations to carry out the purposes and provisions of the Coastal Act (§ 30333), to conduct additional studies that the Commission determines to be necessary to accomplish the goals of the Coastal Act (§ 30341), and to prepare an informational and educational guide to coastal resources for the public. (§ 30344.)

The Commission also hears and decides applications for coastal permits (§§ 30600-30627), reviews the coastal programs of local governments (§§ 30512-30514), and issues cease and desist orders to halt or remove illegal development. (§ 30809.)

As we have noted, the Commission has 12 voting members, who are appointed in the following manner: the Governor selects 4 members (2 from the public at large, 1 from a designated north coast region of the state, and 1 from the south central coast region); the Speaker of the Assembly selects 4 members (2 from the public at large, 1 from the central coast region, and 1 from the San Diego coast region); and the Senate Committee on Rules selects 4 members (2 from the public at large, 1 from the north central coast region, and 1 from the south coast region). (§§ 30301, subds. (e), (f), 30301.5.) Except for appointments from the public at large, the selections must be made from a list established by local government officials. (§ 30301.2.) Members of the Commission serve two-year terms at the pleasure of their appointing authority. (§ 30312.)

Marine Forests is a nonprofit corporation whose purpose is the development of an experimental research program for the creation of marine forests to replace lost marine habitat. After incorporating in 1986, Marine Forests planted its first experimental marine forest on a sandy plain near Newport Harbor in Orange County, California. The marine forest is made of various materials, including used tires, plastic jugs, and concrete blocks.

In June 1993, the Commission opined that Marine Forests' experiment was a coastal zone development requiring a permit under the Coastal Act. The Commission denied Marine Forests' application for an after-the-fact permit, and in October 1999, it issued a Notice of Intent to Commence Cease and Desist Order Proceedings. After a hearing, the Commission issued a cease and desist order for Marine Forests' experimental site. The order was stayed as the result of Marine Forests' lawsuit.

Marine Forests' complaint included a cause of action for injunctive relief on the ground that the Commission did not have the authority to issue cease and desist orders. Marine Forests claimed that the Commission lacked such authority because the mechanism by which the majority of its voting members are appointed violates the separation of powers doctrine.

The parties filed cross-motions for summary adjudication of Marine Forests' separation of powers cause of action based on stipulated facts. Marine Forests contended, and the Commission disputed, that the Commission's activities violate the separation of powers clause in article III, section 3 of the California Constitution and the appointments clause in article V, section 1.

According to Marine Forests, the statutory method for appointing the Commission's voting members gives the legislative branch of state government control of the majority of the voting members of the Commission, which impermissibly interferes with the executive branch's constitutional authority to execute the laws.

Marine Forests contends that, because of this legislative control, the Commission can perform policymaking functions but should not be permitted to exercise executive or quasi-judicial functions.

The trial court agreed with Marine Forests and granted its motion for summary adjudication and request for injunctive relief. The court ruled that the power of the Senate Committee on Rules and the Speaker of the Assembly to appoint the majority of the Commission's voting members and to remove them at will effectively renders the Commission a "legislative agency" because the Commission is not subject to the control of the executive branch. Accordingly, the court enjoined the Commission from granting, denying, or conditioning permits or from issuing cease and desist orders because such actions by a legislative body violate the separation of powers clause of the California Constitution. The court stayed enforcement of its order and enforcement of the Commission's cease and desist order pending appellate review of the constitutional issue.

The Commission's appeal involves a constitutional challenge and a pure question of law. Thus, we apply a de novo standard of review. (*Ghirardo v. Antonioli* (1994) 8 Cal.4th 791, 799-801.)

DISCUSSION

I

Article III, section 3 of the California Constitution states: "The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution."

"The separation of powers doctrine limits the authority of one of the three branches of government to arrogate to itself the core functions of another branch. [Citations.] "The courts have long recognized that [the] primary purpose [of the . . . doctrine] is to prevent the combination in the hands of a single person or group of the basic or fundamental powers of government." [Citations.] To serve this purpose, courts "have not hesitated to

'The separation of powers doctrine limits the authority of one of the three branches of government to arrogate to itself the core functions of another branch.'

strike down provisions of law that either accrete to a single Branch powers more appropriately diffused among separate Branches or that undermine the authority and independence of one or another coordinate Branch." [Citations.] (*Carmel Valley Fire Protection Dist. v. State of California* (2001) 25 Cal.4th 287, 297 (hereafter *Carmel Valley*)).

However, the separation of powers doctrine recognizes that the three branches of government are interdependent. Accordingly, "it permits actions of one branch that may 'significantly affect those of another branch' [citation]" as long as there is no material impairment of the other branch's core functions. (*Carmel Valley, supra*, 25 Cal.4th at p. 298.) "The purpose of the doctrine is to prevent one branch of government from exercising the complete power constitutionally vested in another [citation]; it is not intended to prohibit one branch from taking action properly within its sphere that has the incidental effect of duplicating a function or procedure delegated to another branch." [Citation.] (*Id.* at p. 298, orig. italics.)

II

"In general it may be said that it is for the Legislature to make public policy and for the executive to carry out the policy established by the Legislature. In practice the complexity of public business necessitates that many of the functions of government be accomplished by administrative agencies. [Citation.]" (*California Radioactive Materials Management Forum v. Department of Health Services* (1993) 15 Cal.App.4th 841, 870 (hereafter *Radioactive Materials*); disapproved on another point in *Carmel Valley, supra*, 25 Cal.4th at p. 305, fn. 5.)

There can be no doubt that "[a]dministrative agencies are part of the executive branch of government. [Citation.]" (*Radioactive Materials, supra*, 15 Cal.App.4th at p. 870.)

And there can be no doubt that the Commission exercises executive powers.

For one thing, it has been given the authority to "adopt or amend, by vote of a majority of the appointed membership thereof, rules and regulations to carry out the purposes and provisions of [the Coastal Act] . . ." (§ 30333.) Such authority constitutes "substantive lawmaking." (*Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 10.) Because the Legislature "may make no law except by statute and may enact no statute except by bill" (Cal. Const., art. IV, § 8), it has no power to make law by regulation. Hence, the authority to adopt and amend rules and regulations to carry out the purposes and provisions of the Coastal Act represents the delegation of the Legislature's law-making power to an executive agency. (*Yamaha Corp. of America v. State Bd. of Equalization, supra*, 19 Cal.4th at pp. 10-11.)

The Commission has other duties and powers that are executive in nature. As we have noted, it has the authority to contract with private or governmental agencies for the performance of any work or services that cannot be performed satisfactorily by the Commission's employees. (§ 30334.) It also has authority to investigate and to determine what, if any, action should be taken against any person or governmental agency that has undertaken, or is threatening to undertake, any action within the jurisdiction of the Commission. (§ 30809.) Other duties of the Commission include reviewing the coastal programs of local governments for compliance with the Coastal Act; the Commission has the author-

ity to refuse to certify those plans if they do not conform with policies specified in the Coastal Act. (§§ 30510-30514.) These duties in the interpretation and implementation of the Coastal Act are the very essence of the power to execute the law. (*Bowsher v. Synar* (1986) 478 U.S. 714, 733 [92 L.Ed.2d 583, 600].)

In executing the Coastal Act, the Commission also grants and denies permits, issues cease and desist orders, and performs other review functions (§§ 30600, 30601-30627, 30809-30811), all of which are exercises of quasi-judicial power. (*Yost v. Thomas* (1984) 36 Cal.3d 561, 572; *City of Coronado v. California Coastal Zone Conservation Com.* (1977) 69 Cal.App.3d 570, 574.) An administrative agency may exercise quasi-judicial powers if (1) the exercise of such power is incidental to, and reasonably necessary to accomplish, a function or power properly exercised by that agency, and (2) the essential judicial power remains ultimately in the courts through review of the quasi-judicial determinations. (*Bradshaw v. Park* (1994) 29 Cal.App.4th 1267, 1275; *In re Danielle W.* (1989) 207 Cal.App.3d 1227, 1236.) Therefore, assuming the requisite judicial review exists, it generally is appropriate for an administrative agency to exercise quasi-judicial powers because this is incidental to, and reasonably necessary to effectuate, the agency's executive power to implement and execute the law. But this is an executive power to be exercised in aid of the agency's executive functions; it is not a legislative power.

III

The Commission contends that the California Constitution does not prohibit the Legislature from appointing members of an executive branch agency; therefore, in the Commission's view, the fact that the Speaker of the Assembly and the Senate Committee on Rules appoint the majority of the Commission's voting members does not violate the separation of powers doctrine stated in article III, section 3 of the California Constitution.

The Commission relies in part upon the California Constitution of 1849, which stated in pertinent part: "All officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the Legislature may direct." (Former art. XI, § 6.) When the Constitution was redrafted in 1879, this provision was retained in former article XX, section 4. It was interpreted as giving the Legislature both the power to establish new offices in addition to those provided for in the Constitution and the power to declare the manner in which non-constitutional officers shall be chosen. This latter power included not only the ability to delegate the duty of appointment to some other person or body, but also the Legislature's ability to make the appointment in question itself. (*Ex Parte Gerino* (1904) 143 Cal. 412, 414; *People v. Freeman* (1889) 80 Cal. 233, 235-236; *People v. Langdon* (1857) 8 Cal. 1, 16.)

Article XX, section 4 of the California Constitution was

'This is not merely a paper conclusion. It is a political reality.'

repealed by Proposition 15 in the general election of November 3, 1970. Noting that the repealed provision "apparently was intended during the early days of statehood to confirm the power of the Legislature to establish departments and agencies other than those specifically created by the Constitution," the California Constitution Revision Commission concluded: "Since there is nothing elsewhere in the Constitution restricting the now accepted inherent power of the Legislature to establish new offices, agencies, and departments, this provision is constitutionally unnecessary." (Footnote 1.) The ballot pamphlet stated that the repeal of this provision would place the subject matter of the deleted matter under legislative control through the enactment of statutes.

The enactment of a statute replacing former section 4 of article XX was unnecessary in light of Government Code section 1300, which was passed in 1943. (Stats. 1943, ch. 134, § 1300, p. 960.) It provides: "Every officer, the mode of whose appointment is not prescribed by law, shall be appointed by the Governor."

Accordingly, despite the repeal of former section 4 of article XX, the Legislature retains the power to enact legislation creating new agencies, and the power of appointment that is not regulated by the California Constitution may be regulated by statute. (Footnote 2.) If the law so prescribes, the appointment power may be exercised by the Legislature. Only when the appointing authority is not otherwise prescribed by law does this power reside in the Governor. (Footnote 3.)

The Commission points out that, where there is no set term of office, the power to appoint an officer includes the power by the appointing authority to remove the officer at will. (Citing Gov. Code, § 1301 ["Every office, the term of which is not fixed by law, is held at the pleasure of the appointing power"]; *Brown v. Superior Court* (1975) 15 Cal.3d 52, 55; *People v. Hill* (1857) 7 Cal. 97, 102.) It follows, the Commission argues, that because the Legislature has the authority to enact statutes permitting it to appoint administrative agency officers and to provide for their removal at the pleasure of the appointing party, the Legislature's exercise of such power with respect to the Commission does not violate the separation of powers doctrine. We disagree.

The fact the legislative branch has the power to appoint executive branch officers and to provide for their removal at will does not mean that this authority is without limits. Nor does it mean that the Legislature's exercise of its power in structuring the appointment of the Commission's members does not violate the separation of powers doctrine.

For example, although Congress had the authority to create a Board of Review when relinquishing to an executive agency the operating authority over federal property, it violated the separation of powers doctrine by specifying that the Board of Review would consist of nine Members of Congress who would have veto authority over decisions of the executive agency. (*MWAA v. CAAN* (1991) 501 U.S. 252, 255, 263, 270-271, 277 [115 L.Ed.2d 236, 245-246, 251, 255-256, 259].)

A different example may be found in *Obrien v. Jones* (2000) 23 Cal.4th 40, a case in which the California Supreme Court was asked to determine whether a statute permitting the Governor, the Senate Committee on Rules, and the Speaker of the Assembly to appoint three of the five judges of the State Bar Court Hearing Department violated the separation of powers clause of our state Constitution because "the power to discipline licensed attorneys in this state is an expressly reserved, primary, and inherent power of [the Supreme Court]." (*Id.* at p. 48.)

The Supreme Court did not simply say that the Legislature had the power to make appointments or to dictate the appointing authority and, consequently, there was no constitutional violation. Rather, the relevant question was whether the appointment mechanism materially impaired the court's primary and ultimate authority over the attorney admission and discipline process. (*Obrien v. Jones, supra*, 23 Cal.4th at pp. 43-44, 50.)

The Supreme Court noted that all applicants for appointment as a State Bar Court judge must be screened and evaluated in light of criteria specified by statute and rules of the Supreme Court (*Obrien v. Jones, supra*, 23 Cal.4th at p. 51), and must be found qualified by the Applicant Evaluation and Nominating Committee, whose members are appointed by the Supreme Court. (*Id.* at pp. 52, 53.) And once appointed, the State Bar Court judges "are subject to discipline by [the Supreme Court] on the same grounds as a judge of a court of record in this state." (*Id.* at p. 46.) In addition, findings and recommendations of State Bar Court judges are subject to independent review by the Review Department, whose members are appointed by the Supreme Court (*id.* at pp. 54, 55), and the Review Department has the broad authority to accept or reject the findings and recommendations of the hearing judges. (*Ibid.*) Furthermore, those findings and recommendations must then be presented for the Supreme Court's consideration. (*Id.* at p. 55.)

Hence, there is no separation of powers violation because the appointment mechanism is subject to sufficient judicially controlled protective measures to ensure that the appointments do not impair the Supreme Court's authority. (*Obrien v. Jones, supra*, 23 Cal.4th at pp. 44, 55, 57.) "As in the past, all hearing judges [are] subject to the primary authority and supervision of [the Supreme Court]." (*Id.* at p. 55.)

Likewise, the relevant question with respect to the Commission is whether the appointment mechanism in sections 30301 and 30312 materially infringes upon the inherent authority of that executive branch agency, i.e., undermines the authority and independence of the agency, as Marine Forests alleges, or whether there are sufficient safeguards preventing such an infringement.

IV

In contrast to the appointments to the State Bar Court, the statutory scheme regarding the Commission gives the Legislature virtually unfettered discretion in appointing 8 of the 12 voting members of the Commission. (§§ 30301, 30301.2.) Other than the requirement that 4 of the 8 members appointed by the Legislature must be local elected officials, the scheme provides no standards or procedures for evaluating the qualifications of prospective appointees. Although those appointments are made from a list of nominees provided by the county and city governments within the regions, the appointing authorities have the power to reject all of the nominees on the list and to require the local governments to provide additional nominees. (§ 30301.2.) The only qualification concerning the appointment of public members is that the appointing authorities "shall make good faith efforts to assure that their appointments, as a whole, reflect, to the greatest extent feasible, the economic, social, and geographic diversity of the state." (§ 30310, subd. (b).) And there is no requirement that appointees be found qualified by a review committee controlled by the executive branch.

Even more significant is the fact that, unlike State Bar Court judges who serve set terms and are subject to removal on the same grounds applicable to a judge of a court of record, pursuant to proceedings under the exclusive control of the judiciary (*Obrien v. Jones, supra*, 23 Cal.4th at p. 46), the Commission members who are appointed by the Legislature serve at the pleasure of the appointing authority and, thus, can be removed and replaced at any time and for any reason, or for no reason at all. (§ 30312, subd. (a).)

There are no safeguards and checks which would serve to ensure that the Commission is under the primary authority and supervision of the executive branch. Rather, the retention by the Legislature of the virtually unfettered power of appointment, and wholly unfettered power of removal, over two-thirds of the voting members of the Commission serves to ensure that the Commission is under the control of the Legislature.

This is not merely a paper conclusion. It is a political reality. On motion for summary judgment, the Commission stipulated that "[the Commission] is not appointed by the Governor and is not subject to the Governor. [It] has been placed by the Legislature in the Resources Agency but is not governed by that agency." Thus, the Commission regards itself as being free of executive branch authority and supervision. Of course, whether the Commission is free of executive branch supervision and control is a legal, not a factual, question. But the Commission's view of its own position in government serves to confirm our legal conclusion that the Commission is subject to the control of the Legislature rather than executive branch of government. And this control enables the legislative branch concomitantly to control the Commission's function of implementing the Coastal Act (§ 30330), which function is the very essence of the executive power.

It is true "[t]he Legislature may, by statute, exercise broad control over the policies to be implemented and the ways and means of their accomplishment. However, acts which are done to carry out the policies and purposes already declared by the Legislature are not a legislative function." (*Radioactive Materials, supra*, 15 Cal.App.4th at p. 871.) The Legislature cannot exercise direct supervisory control over the performance of the duties of an executive officer in his or her execution of the laws; rather, it can exercise control only indirectly by dictating the manner of execution of the laws via the enactment of legislation. (See *Carmel Valley, supra*, 25 Cal.4th at p. 304; *Connerly v. State Personnel Bd.* (2001) 92 Cal.App.4th 16, 63; *Radioactive Materials, supra*, 15 Cal.App.4th at p. 873; cf. *Bowsher v. Synar, supra*, 478 U.S. at pp. 733-734 [92 L.Ed.2d at p. 601].)

Accordingly, by retaining the unilateral power to remove at will the majority of the voting members of the Commission, the legislative branch impermissibly controls the Commission's executive function of implementing the Coastal Act in violation of the separation of powers clause of California's Constitution.

Other jurisdictions that have examined similar issues have reached conclusions consistent with ours. For example, the Kansas Supreme Court held that its state's separation of powers

'The presumed desire of those members to avoid being removed from their positions creates an improper subservience to the legislative branch of government. And the scheme contains no safeguards or checks ... consequently, this statutory scheme gives the Legislature excessive control over the Commission in the exercise of powers, and in the execution of duties, that are executive in character.'

doctrine was violated where legislators controlled an administrative body in the performance of its executive functions. (*State v. Bennett* (1976) 219 Kan. 285, 298 [547 P.2d 786, 797-798].) In contrast, the Louisiana Supreme Court determined that its state's separation of powers doctrine was not violated by legislative appointment of the majority of members of a board that performed executive functions because, unlike in the present case, the board members could be removed only for cause and there was no continuing relationship between the legislative branch and the appointees. (*State Board of Ethics v. Green* (1990) 566 So.2d 623, 625-626.)

As pointed out by the United States Supreme Court in *Bowsher v. Synar, supra*, 478 U.S. 714 [92 L.Ed.2d 583] (hereafter *Bowsher*), if the majority of an executive agency's voting members (i.e., those who implement the duties of the agency) are removable at the pleasure of members of the legislative branch, this impermissibly interferes with the executive power to see that the law is safely executed and to supervise the official conduct of executive officers. (*Id.* at pp. 726-727 [92 L.Ed.2d at pp. 596-597].)

Bowsher concerned the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. § 901 et seq.), which required the United States Comptroller General to identify budget reductions that the President was required to carry out when federal deficit spending exceeded a certain limit. (*Bowsher, supra*, 478 U.S. at pp. 717-718 [92 L.Ed.2d at p. 591].) The Supreme Court noted that, under the United States Constitution, Congress may not remove an officer charged with executive duties, such as the Comptroller General, except by impeachment. (*Id.* at p. 723 [92 L.Ed.2d at p. 594].) Yet Congress had retained the power to remove the Comptroller General virtually at will (*id.* at pp. 720, 728-732 [92 L.Ed.2d at pp. 592, 597-600]), which had the effect of making the officer answerable only to Congress and vesting Congress with control of the execution of the laws in violation of the separation of powers doctrine. (*Id.* at pp. 726-727 [92 L.Ed.2d at pp. 596-597].) Because Congress retained removal authority over the Comptroller General, he could not be entrusted with executive powers. (*Id.* at pp. 732 [92 L.Ed.2d at p. 600].)

The Supreme Court explained: "To permit an officer controlled by Congress to execute the laws would be, in essence, to permit a congressional veto. Congress could simply remove, or threaten to remove, an officer for executing the laws in any fashion found to be unsatisfactory to Congress. This kind of congressional control over the execution of the laws ... is constitutionally impermissible." (*Bowsher, supra*, 478 U.S. at pp. 726-727 [92 L.Ed.2d at pp. 596-597].) "[O]nce Congress makes its choice in enacting legislation, its participation ends. Congress can thereafter control the execution of its enactment only indirectly—by passing new legislation." (*Id.* at pp. 733-734 [92 L.Ed.2d at p. 601].)

Thus, *Bowsher* "stands for the proposition that Congress may limit the discretion vested in the executive by enacting a statute circumscribing that discretion, but it may not control the exercise of the discretion actually vested by statute in the executive by retaining the unilateral power of removal." (*Carmel Valley, supra*, 25 Cal.4th at p. 305.) This commonsense reasoning of *Bowsher* applies equally to the separation of powers clause of California's Constitution. (Footnote 4.)

Section 30312 gives the Speaker of the Assembly and the Senate Committee on Rules virtually unfettered authority over the appointment of a majority of the Commission's members, and wholly unfettered power to remove those members at the will of the Legislature. The presumed desire of those members to avoid being removed from their positions creates an improper subservience to the legislative branch of government. And the scheme contains no safeguards or checks to ensure that those Commission members are subject to the primary authority and supervision of the executive branch. Consequently, this statutory scheme gives the Legislature excessive control over the Commission in the exercise of powers, and in the execution of duties, that are executive in character.

The result is that the legislative branch not only has the ability to declare the law, but also to control the Commission's execution of the law and its exercise of quasi-judicial powers via the Legislature's control of the majority of the Commission's members. This contravenes the primary purpose of the separation of powers doctrine, which "is to prevent the combination in the hands of a single person or group of the basic or fundamental powers of government." [Citations.] (*Carmel Valley, supra*, 25 Cal.4th at p. 297.)

See COURT
On page 5B of the Real Estate Section

O P I N I O N

Editorial

Reinventing the coastal commission

ONCE AGAIN, the amazing prescience of the Founding Fathers has been demonstrated.

They gave us the principal of Separation of Powers, which is vital to the protection of individual liberty.

Without it, those genuises of the 18th Century knew, the public would be tempted to let one individual or group take too much power in the name of pursuing some popular cause.

Usually, it's the executive branch that is tempted to expand its reach — to fight a war, forestall insurrection, or respond to a national emergency. The war on terrorism, for example, might tempt a President to authorize domestic wiretaps without a court order or to open somebody's mail. The public might even support such actions. But the Constitution stands in the way.

Here in California, the coastal commission is the poster child for government power run amok — but because everything the commission does is supposedly to protect the environment, hardly anybody questions it. Especially the news media.

Does the public really support a state agency claiming jurisdiction over Carmel's parking rules? Or telling a homeowner what kind of plants he must choose for his own garden? Or declaring 50-year-old shacks to be 'historic resources'?

And does the public really want one government agency taking on the powers of the Legislature, the police and the courts in one go?

Of course not. But because the coastal commission's basic purpose is so important — protecting the coast from serious threats such as oil spills, sea walls and Malibu-type strip mall development — it has been able to claim popular immunity for all sorts of mischief done in the name of safeguarding the environment.

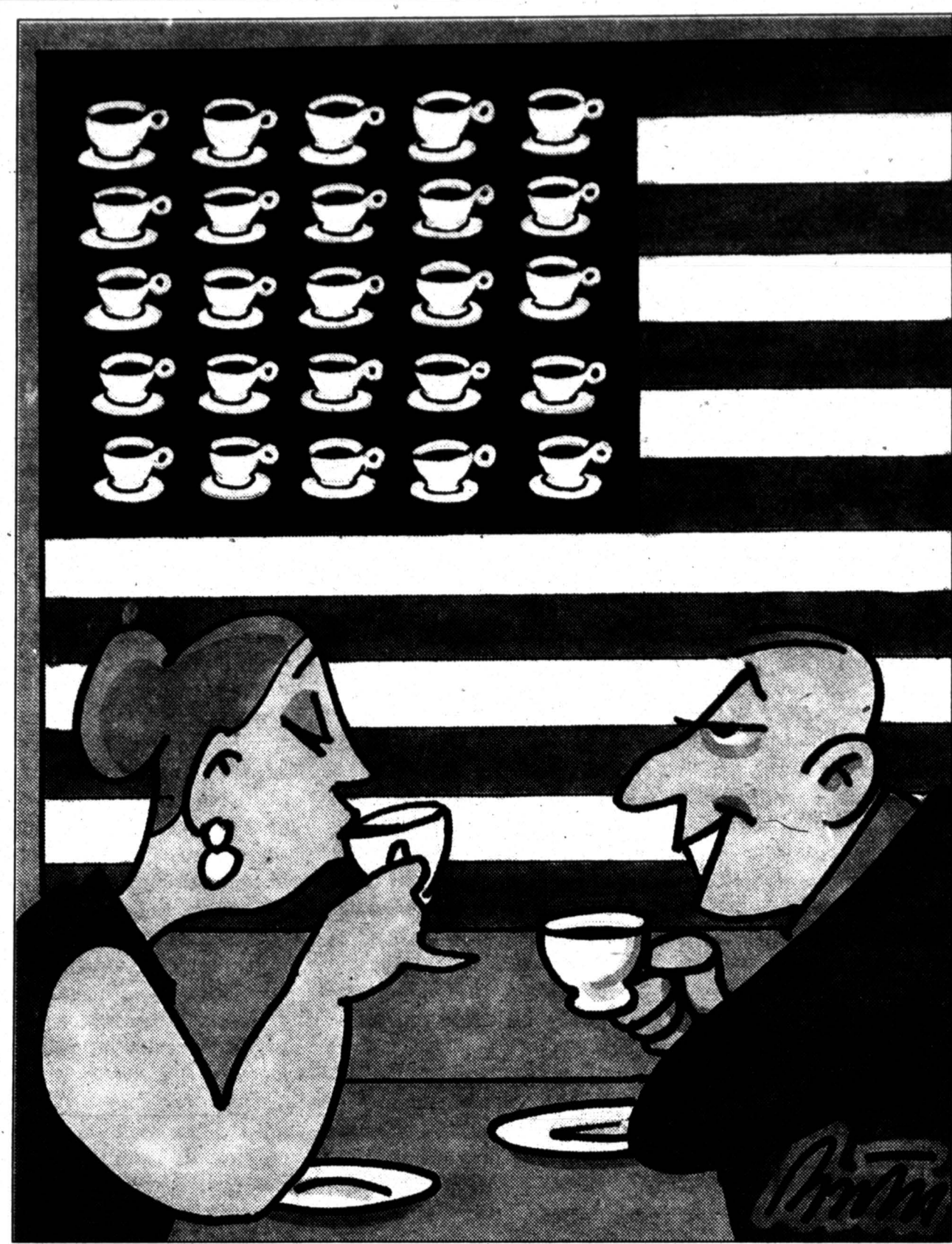
So immune is the commission from ordinary political criticism, when a lower court first ruled the commission was unconstitutional, the decision was laughed at.

Well, nobody's laughing now. Not only did an appeals court uphold the decision by Superior Court Judge Charles Kobayashi, it did so emphatically and unequivocally. There is no way the Supreme Court is overturning the splendid decision issued this week by Judges Arthur Scotland, Rodney Davis and Ronald Robie.

So get ready for a new reality, folks. The myth of the imperial coastal commission has now been blown to bits — replaced with the shocking reality that for 26 years homeowners, local governments, farmers, businessmen and landowners have been told what to do by a government agency that was *against the law!*

Whatever solution the courts and the Legislature come up with, we hope they also figure out a way to get the coastal commission to refocus its attention on the important problems confronting California's magnificent coastline. And leave the small stuff to the cities and counties, where it belongs.

BATES



Letters to the Editor

The Pine Cone encourages submission of letters which address issues of public importance. The Pine Cone reserves the right to determine which letters are suitable for publication. Letters should not exceed 350 words, and must include the author's name, telephone number and street address. Please do not send us letters which have been submitted to other newspapers.

The Pine Cone is no longer able to accept letters to the editor by fax. Please submit your letters by U.S. mail, e-mail, or in person (addresses are provided below).

Reliable poll?

Dear Editor,

Please allow me to take issue with the Pine Cone's recent reporting of the Valley Watch poll on Carmel Valley incorporation, on three grounds. As a UC Berkeley Ph.D. in political science, I know something about how polls can be used and abused. This poll was clearly in the latter category. As you recall, this poll supposedly showed overwhelmingly opposition at the mouth of Carmel Valley to exploring the facts about incorporation.

The first point to be made is that the poll

was highly unscientific. When television stations run these phone-in polls they at least have the decency to note that these are not scientific, unlike Valley Watch and The Pine Cone. Valley Watch was guilty on several fronts, including bias in questioning, not utilizing a representative sample, and highly prejudicing the respondents with misinformation about incorporation (i.e., that it would cost each property owner \$50,000, which is simply not true).

Second, even by Valley Watch's rigged standards, the results are not as they and you have uncritically reported. Let me take just one example. Valley Watch reported that 77% of Del Mesa's residents were opposed to possible incorporation. We went to LAFCO to check Valley Watch's claims, and found a very different story. The facts? Of Del Mesa's 326 registered voters, 61 people or just under 19%, responded negatively to possible incorporation on Valley Watch's ballot. By contrast, 136 Del Mesans, or 42% of its registered voters, have already signed the Carmel Valley Petition asking for LAFCO to provide the facts on the feasibility of incorporation. Thus, more than twice as many Del Mesa voters are on record as favoring the exploration of incorporation as are opposed to further study. Your reporting certainly did not note this fact.

Third, neither Valley Watch nor your

See LETTERS *next page*

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Let it spray, part 2

PINE CONE STAFF REPORT

IS IT a trend or merely a coincidence?

First a major water main burst on Christmas Eve and then another popped its cork on New Year's Eve, shooting a 60-foot geyser into the air and wasting 750 gallons per minute.

Carmel police, fire and public works responded to the water show at Monte Verde and Second at about 9:00 p.m., where they were soon met by a Cal-Am crew.

After shutting off the nearby valves — cutting water to eight homes in the area for a few hours — four Cal-Am workers capped the pipe and resecured it.

Operations supervisor Gary Hofsheier speculated that rain-sodden soil around the pipe shifted and caused the rupture. He estimated that during the two-hour break, about 90,000 gallons of water were lost.

LETTERS

From page 18A

reporter noted another fascinating fact: Many of the so-called ballots came from out-of-town. Among many other fascinating locales, returned ballots came from San Jose, Pleasanton, Palos Verdes Estates (LA), and Colorado(!) This does not even include the stack of ballots that came from various estate trustees and other out-of-towners.

In sum, the fraudulent survey by Valley Watch shows both the need for solid, unbiased information about incorporation, and the need for more critical, open-eyed reporting by our local media.

Glenn Robinson,
Carmel Valley

BAYLESS

From page 3A

the son of a mining engineer. His family returned to the United States while he was still an infant. He graduated from San Jacinto High School and Massey Business College in Houston before being called up to active duty with the Texas National Guard in 1940.

He served in the Air Force in Italy in World War II.

In 1949, he married Charlsie Smith, of Waco, Texas.

During the Korean conflict he was again called up from reserve status and served as personnel officer.

After returning to civilian life, he obtained a degree in electrical engineering from Fenn College in Cleveland, Ohio.

Soon after, he was hired as an engineer by George Washington University, which sent him to Fort Ord to work on a project for the military — a project which is still classified, according to his family.

However, an article in the 1977 Pine Cone reported that Mr. Bayless was developing psychological testing devices at Fort Ord.

In 1962, at a friend's suggestion, he applied for and won the city clerk position in Carmel, accepting a two-thirds salary cut to do so.

Mr. Bayless borrowed a page out of Harry Truman's book for his management style. There was a small sign over Bayless' desk that read: "I have a very responsible position.

If anything goes wrong I'm responsible."

During his tenure, the city drafted some of its most eccentric ordinances, including a law requiring a permit to wear high heels in town and the law banning sitting on the grass at Devendorf Park — a law that was eventually thrown out by the California State Supreme Court.

In an interview, Mr. Bayless once said, "none of the ordinances were intended to be fiction, although a few of them turned out that way."

He did try his hand at fiction, publishing several suspense novels under both a pseudonym and his own name. He also wrote "The Best Towns in America: Where To Go Guide For a Better Life."

Those who knew him, said Mr. Bayless helped Carmel remain one of the best towns in America. "He was the first city administrator of Carmel and as long as I worked for the city, he was the best city administrator," Grimshaw said.

One of his other major accomplishments, Grimshaw noted, was rewriting the city's entire municipal code in a much more understandable form.

She recalled putting in many hours of overtime on that project, even though she wasn't paid for the extra hours. "We didn't get overtime and we didn't care because we were doing the job we were there to do. He inspired us to give our all."

Mr. Bayless is survived by his two sons: Duncan Scot Fitzalan Bayless and Graeme Keith Cameron Bayless; his brother, Frank Bayless; sister Mary Steddom and three grandchildren, Tyler, Ryan and Theresa.

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LCP

From page 1A

due document.

McCloud hopes the coastal commission will hold its next hearing on the Land Use Plan in March, as originally scheduled.

Though the city remains sanguine about

its prospects in the wake of the court ruling, individual homeowners applying for permits are wondering if they'll be delayed while the coastal commission appeals the court decision or the legislature attempts to change the law to make the commission constitutional.

Carmel home designer John Mandurrage said he has been waiting more than a year for

permission to tear down Hitchcock House on Mission Street to build a 13-unit residential care home for seniors.

"When I first heard the news, I was elated that they were no longer going to be in charge of permits," Mandurrage said. "Then I heard there's a chance they could appeal, and that bothered me."

Mandurrage noted that he's already received all the necessary permits and approvals from the City of Carmel to move forward with his project.

When the coastal commissioners began scrutinizing Carmel demolitions, denying

many of them, Mandurrage decided to withdraw his application for the time being.

Doug Weaver, who wants to replace a home on San Carlos Street, said he hopes the coastal commission will be able to fix the problem fairly easily, though he isn't counting on it. "I don't see the court ruling helping us along. In fact, it could cause further delays," Weaver said.

Mandurrage said the legal ruling should serve as a wake-up call to the coastal commission. "I'm hoping this will soften them up a little bit and maybe they'll be a little more cooperative," he said.

COMMISSION

From page 1A

commission in 1998 to remove an experimental reef off the Newport Beach pier.

"There is vast public sentiment, especially among people who have dealt with the coastal commission, that it is an erratic, unfair, out-of-control organization that is arrogant, arbitrary and power happy," Zumbrun said.

He said his client's project was treated with "hostility and rudeness" by the coastal commission at a permit hearing four years ago. The City of Newport Beach issued a permit for the reef, which was designed to provide habitat for fish and other sea animals, but the commission ordered it removed.

In April 2001, a trial judge in Sacramento overturned that order, ruling for the first time that the commission was unconstitutional — a decision that was ridiculed at the time. But this week's unanimous ruling has transformed it from a far-fetched idea into the law of the land, undermining the long-cherished authority of the state's most powerful planning body and leaving coastal activists searching for a way to keep it intact.

"We have our lawyers looking at the [appeals court ruling] and we will deal with the problem," said State Senate President John Burton, one of the legislative bosses whose power over the coastal commission was overturned by the court.

His Assembly counterpart, Herb Wesson, told the L.A. Times the easiest solution would be to remove the "at will" provision in the Coastal Act, giving commissioners fixed terms instead of leaving them at the mercy of the person who appointed them.

But the governor's office wasn't commenting on a possible restructuring of the coastal commission. Any solution offered by the Legislature would need Gray Davis's signature. He might seek the power to appoint a

majority of coastal commissioners himself, as a way of increasing his authority over the group.

A lawyer for the Sierra Club, Mark Massara, said a ballot measure might be circulated to keep the governor from gaining control of the coastal commission.

Meanwhile, Zumbrun was savoring his success — the second huge court victory over the coastal commission of his career.

"Regional agencies like the coastal commission are usually the most outrageous," Zumbrun said. "For some reason, they get the farthest from the checks and balances that protect ordinary citizens."

In 1987, when Zumbrun was head of the Pacific Legal Foundation, the U.S. Supreme Court ruled that the coastal commission's aggressive pursuit of access easements across private property — routinely required from landowners and a condition for getting a building permit — was "extortion" that violated the United States Constitution's prohibition against taking private land for a public purpose without paying for it.

Now in private practice as head of the Zumbrun Law Firm, he has once again convinced a high court the coastal commission is violating a fundamental law.

He said he had been besieged with calls from supporters since the decision was announced Tuesday morning.

"People who have been subjected to the coastal commission's unreasonable seizure of powers are happy about the decision, but they're sad about their own situation," Zumbrun said. That's because the statute of limitations to file an appeal of a coastal commission decision is just 60 days for most coastal permits — leaving thousands of property owners without any immediate benefit from this week's court decision.

But recent permit applicants who feel they've been mistreated by the coastal commission may be able to file a separation-of-powers lawsuit similar to the Marine Forests Society case, legal experts said.



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A superb quality tradition of 20 years in Carmel is now closing its doors forever. RITTMASTER MEN'S SHOP under the leadership of the Rittmaster family, are currently liquidating their entire better menswear clothing inventory. There will be exceptional savings from 40% to 80% on the finest quality names in men's clothing inventory.

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MEN'S SUITS

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\$239 to \$759

SPORT COATS

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\$156 to \$446


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VALUES TO \$450

\$49 to \$272

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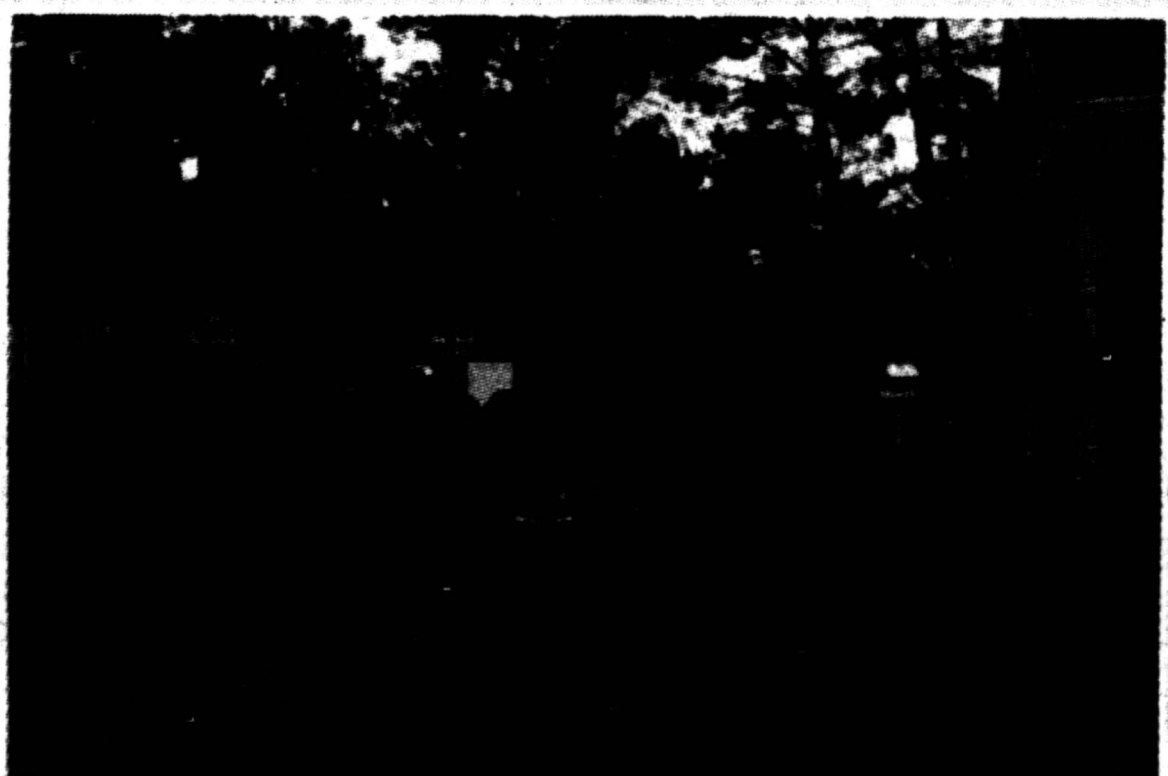
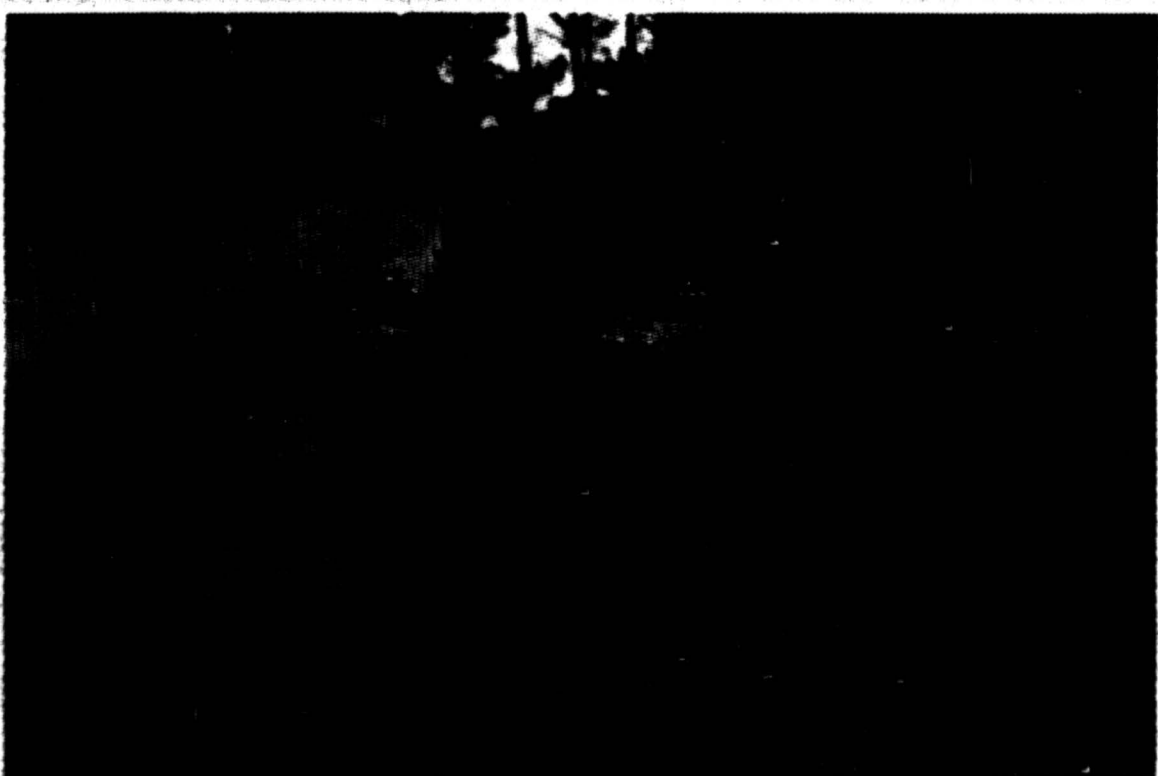
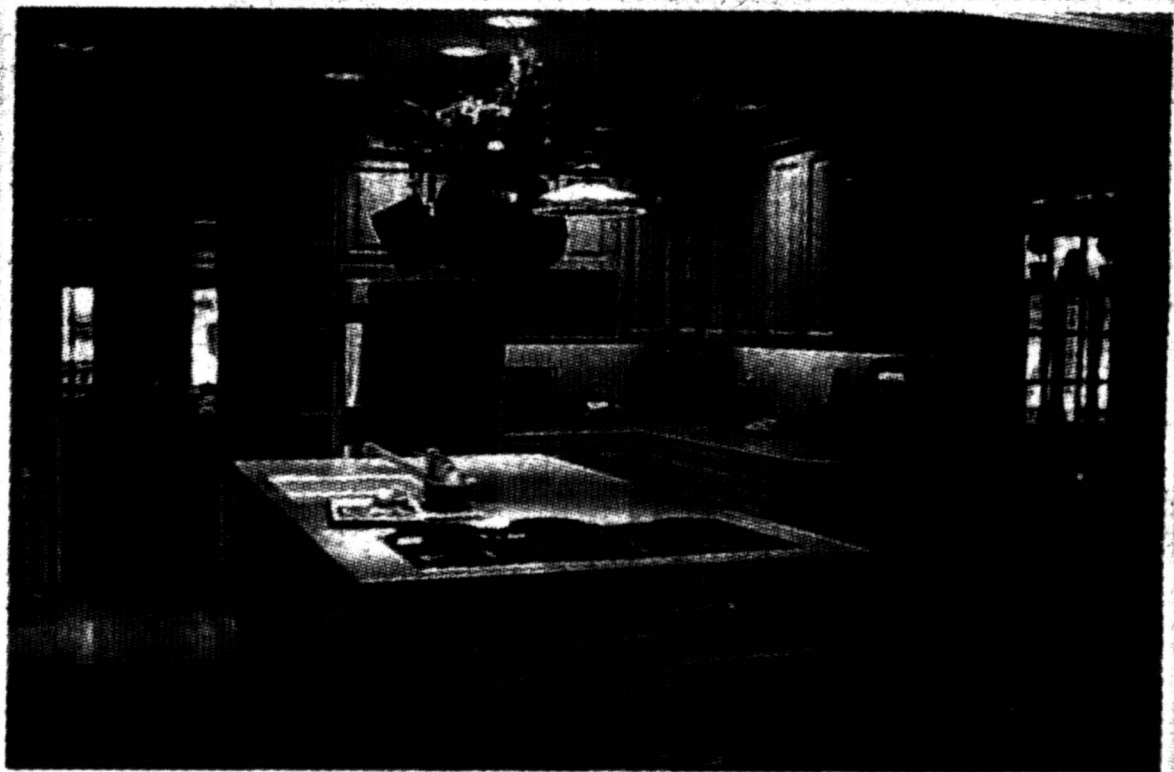
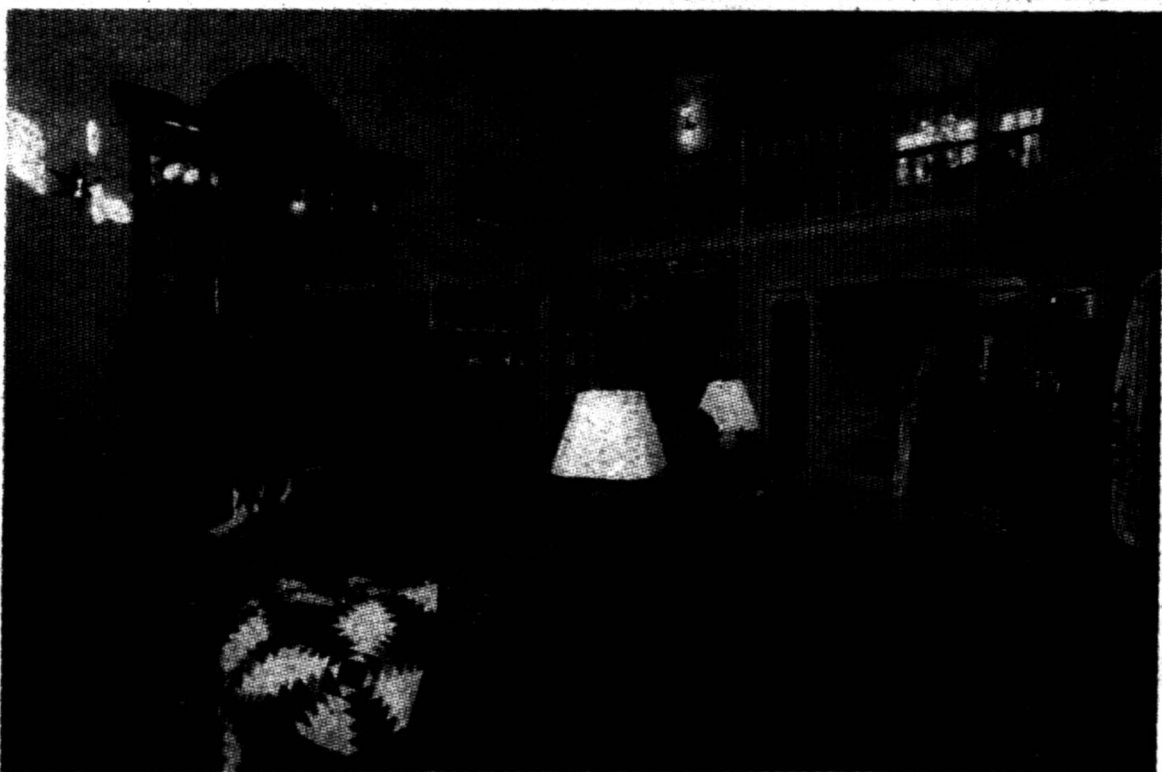
The Crossroads Shopping Village
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SECTION B ■ January 3-9, 2003

Take your spouse to an Open House!

The Carmel Pine Cone

Real Estate



■ This week's cover home, located in Pebble Beach, is presented by
Jamal Noorzoy of Alain Pinel Realtors (see page 2B)


ALAIN PINEL
REALTORS

About the Cover

*"Chatelaine Sur Mer"*

in
Pebble Beach

This Grand Estate, with authentic architectural detailing & design, offers a wonderful blend of old world character with modern day luxury. With in this large but thoroughly cozy home, are spacious rooms, volumes of light, intimate niches and marvelous detailing to delight the eyes & senses. Surrounded by a covered porch, brick patios and walkways, the gardens and landscape create a wonderful extension of living space, with ocean views and green belt backgrounds. Truly a great estate with an ambience and setting for wonderful entertaining and luxurious comfortable living.

Offered at \$3,750,000



Jamal Noorzoy
831.622.9903

Jamal@HomesofCarmel.com



REAL ESTATE

Home sales for the week of December 15-21, 2002

CARMEL

3349 Taylor Rd \$1,375,000

Gordon & Mary Foxworthy to Jeffrey C & Hsin-I Chen

26372 Camino Real \$2,245,000

Corinne Whitaker to Henry C Jr & Sally C Baumgartner

Pescadero Rd \$980,000

Robert J & Marcy L Rustad to Donald E & Billie L Moffitt

CARMEL - SOUTH COAST

None

CARMEL VALLEY

Black Mountain Trail \$1,550,000

Bay Colony Investors II Inc to Todd D & Pamela J Bakar

9811 Club Place Ln \$831,500

Phyllis Pagel-Holcombe to Jack L Kay

8 Del Mesa Carmel \$375,000

Robert L & Mary Jo Moore
to William T & Lorraine L
Ledo

**12 Buena Vista Del
Rio \$460,000**

Bill C & Sandra L O'Brien
to Neil MacDougall

PEBBLE BEACH

**2876 Oak Knoll Rd
\$875,000**

Phillip & Dianne E Chavez
to Charles H Phillips

**4073 El Bosque Dr
\$735,000**

Alexander F Kennett to
Steve M & Beatriz
Shudoma

**978 Coral Dr
\$1,450,000**

Wendell Stewart & June
Thompson to Bert H &
Bonnie J Bonanno

The Carmel Pine Cone
Real Estate Section

*It's where buyers
and sellers meet!*



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MACOMBER ESTATES • PEBBLE BEACH



A private gated community of 20 magnificent sites located within The Del Monte Forest, of which only 3 lots remain — priced from \$1,750,000 to \$2,950,000 with approved plans on lot 15. (A private tour of the property can be arranged). For a color brochure or more information on our available properties and Concept Design, please call... (All Lots Have Available Water.)

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JEROME J. LOHR
President

CHARLES ALEXANDER
Vice President/Project Manager

The team at Macomber Estates looks forward to solving your design problems and easing your transition into the only subdivision in Pebble Beach with a gated entry. Macomber Estates is a united effort by Jerome J. Lohr, as Project Leader, working with you to either custom design a new home on the remaining lots or fine tune existing plans to fit your requirements. Charles Alexander coordinates and oversees the implementation of these plans into the completed residence. Jerry and Charles manage the process from concept to completion so that designing and building can be relatively easy.

Tim Allen & Greg Linder
present

"Carmel Legends"

World-famous architects have often wandered through the eclectic mix of architectural styles found in Carmel, finding delight in what they see. Carmel began as a model English village, but over the years the range of styles has embraced every conceivable design, though most eventually become surprisingly harmonious. Famed New York-based American architect Philip Johnson now owns a home in Big Sur, but loved exploring Carmel's architectural gems on walks through its streets. On an early visit to Carmel years ago, he asked to visit a home reputed to be a Greene & Greene master piece in the Carmel Highlands.

The delighted owner toured Philip and a friend through the entire house, while Philip proclaimed its many charms room by room, as is his style. Finally, the owner, ending the tour, said to Philip, "What do you think, overall, Mr. Johnson?" beaming with pleasure as he awaited the final kudos from the great architect.

"Oh, I think it's one of the most beautiful homes I've ever see," Philip replied. Unfortunately, he didn't stop there, but added with typical frankness, "Just as soon as you scrape off all that awful wall painting, it will be perfect." The owner, a self-proclaimed artist and decorator from Texas, had done some faux paint styling inside the main rooms. Philip's friend quickly whispered to Philip that the painting was the owner's contribution to the house and a terrible silence settled in on the threesome for what felt like an eternity.

Fortunately, the friend looked up to see the owner's face expressing puzzlement, and quickly saw the reason. The gentleman had a hearing problem which included his wearing two hearing aids, and to everyone's relief he has not heard what Philip had said! A hasty exit followed, and tours with Philip of Carmel's beautiful homes included better pre-briefings from that time forward.



Tim Allen & Greg Linder

Tim Allen and Greg Linder Wish You the Happiest of Holidays!

SEASHELLS, SANDCASTLES & HAPPY TIMES

PRICE JUST REDUCED!

Remember childhood visits to the family beach house? Relive them in this fabulous remodeled Carmel beach house found just steps from Carmel Beach. From the Carmel stone pathway leading to the cottage style home to the ocean view living room you are sent back in time. Sleep to the sounds of the surf in the master suite with vintage bath or in the guest room. Buy now and start collecting seashells...\$1,995,000

- BRAND NEW PERFECTION BY THE SEA

Beautiful form, function and attention to detail are hallmarks of the practically perfect, brand new English cottage. Wonderfully located just blocks from both Carmel Beach and the Carmel village shops and cafes, this 3 bedroom, 2 bath Carmel cottage boasts beautiful Hickory/Pecan plank floors, cathedral ceilings with massive beams and a gourmet kitchen. A magnificent tree-top master bedroom with a fabulous bath complete this lovingly planned home. \$1,895,000.

GRACEFUL GOLF COURSE MEDITERRANEAN

Grand and graceful Mediterranean styled home on the second fairway of the prestigious Monterey Peninsula Country Club's Dunes golf course! This impeccably built 3 bedroom with 3.5 bath residence is the ideal golfer dream home and perfect for anyone who loves luxurious living in Pebble Beach. Beautifully light and airy, this home features a spacious great room, a gourmet kitchen with top appliances and fabulous ground floor master suite. This luxurious Mediterranean is a magnificent value! \$2,595,000.

"EVERYTHING OLD IS NEW AGAIN"

On a sun kissed Carmel corner just steps from the sea rests this tribute to Carmel's past. Beautifully restored and rebuilt, this fine example of the Carmel cottage in Carmel's "golden triangle" boasts ocean views, 3 bedrooms, 3.5 baths, an open beamed living room, spacious gourmet kitchen, ocean view master bedroom with 3 balconies and a perfect Carmel garden. Patios and gardens allow a perfect blend of indoor and outdoor living all within easy walking distance to town. \$2,495,000.

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MIM

THE MITCHELL GROUP



Carmel Valley ~ \$7,700,000

Nestled among majestic oaks, this five bedroom home on 3.5 acres is the first completed residence available at the Santa Lucia Preserve. Quality abounds throughout with a spectacular family room/gourmet kitchen, formal living and dining rooms, office, wine cellar, pool and barbecue pavilion and an eight-car garage. Offered furnished with ranch and golf club memberships (subject to acceptance) and included in the price.

659-2267



CARMEL—Märchen Haus... Exemplifies the brilliance of renowned Carmel builder, Hugh Comstock. Enjoy the intriguing stone fireplace graciously linking the quaint living room and dining room adorned with high vaulted ceilings and his Tudor styling reminiscent of olden days. Built in 1926 this home is on two magnificent, legal lots of record and is expandable into the 21st century.

\$2,257,500

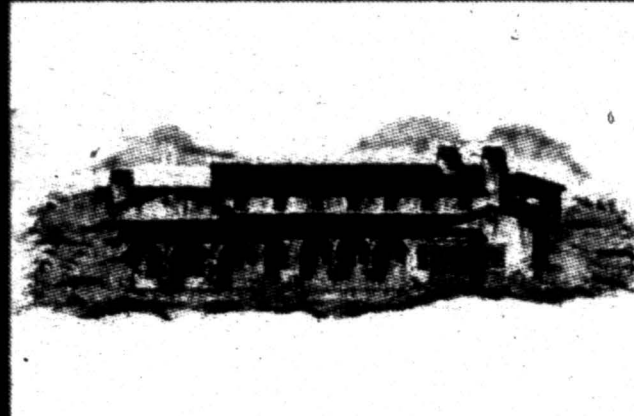
624-6482



PEBBLE BEACH—Situated ideally along the second hole of the famed Pebble Beach Golf Links is this immaculate home with spectacular views of Stillwater Cove. The 3,880 sq. ft. home is just a stroll to the Lodge and includes three gracious suites, each with their own private deck, living area and a classic golfer's den. Elegant yet inviting, the tastefully appointed home is offered fully furnished. The ultimate golfers retreat! Price Reduction!

\$15,950,000

624-0136



MONTEREY/SALINAS HWY—This spectacular 4,777 sq. ft. three bedroom, three and one half bath Spanish style home is on a .71 acre lot overlooking the 12th fairway of the Jack Nicklaus Signature Golf Course at Pasaadera. It features designer kitchen with granite counters and breakfast nook, media room, family room, dining room and living room with fireplace, and attached guest suite with private entry.

\$3,695,000

646-2120



CARMEL VALLEY—In the prestigious community of Sleepy Hollow is where you will find these beautiful 6.6 oak-studded acres with unlimited possibilities. Currently used as horse property and features a two bedroom, one bath ranch house, stalls, barns, and much more. The land has great potential for your dream home, vineyard and/or orchards. Plentiful sunshine, rolling hills and wildlife enhance the serenity.

\$2,200,000

659-2267



PACIFIC GROVE—Prepare to fall in love with this charming, bright and cheerful ocean view home just steps to the ocean and recreation trails. Impeccably maintained with pride of ownership throughout. Features include a remodeled kitchen with top-of-the-line appliances, living room with river rock fireplace, hardwood floors, double-pane windows, new roof and a beautifully landscaped fenced back yard with spacious deck. A must see.

\$895,000

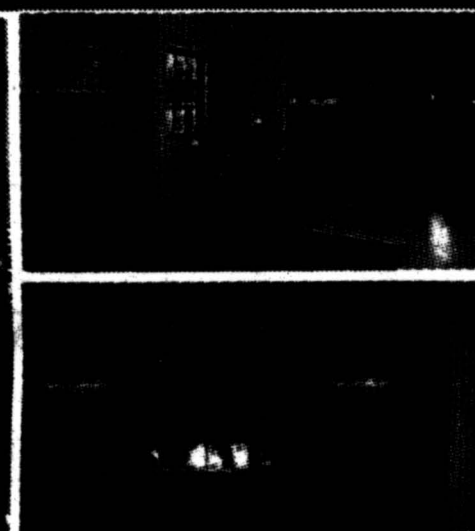
646-2120



Carmel ~ \$1,695,000

This newly constructed three bedroom, three bath home satisfies the most discriminating Carmel homeowner with its impeccable design, craftsmanship and generous use of quality materials. Amenities include limestone flooring, cherry cabinets, granite counters, solid core doors, slate roof, copper gutters and oversized garage. Enjoy the enclosed stone courtyard and fountain adjoining the cozy living room with Carmel stone fireplace. Walk to town—Carmel ambiance!

624-0136



CARMEL—Expansive Point Lobos, mountain and Fish Ranch views from this spacious three bedroom, three and one half bath Hatton Fields beauty. Finished to perfection, inside and out, the home offers a casually elegant style of living with soaring wood ceilings, walls of glass, skylights and a gated entry to gardens and pathways leading to a private stone patio and firepit.

\$1,875,000

624-6482



PEBBLE BEACH—Enjoy white water views of the Pacific Ocean and peaceful golf course views from this spectacular setting in world-renowned Pebble Beach. The three bedroom, two and one half bath home is set back privately from the golf course and offers many quality amenities to the discerning buyer. Take advantage of this unique offering to create or renovate the home of your dreams.

\$2,500,000

624-6482



CARMEL—Moroccan Villa.... Enter through fabulous formal gardens into this grand home built in 1936, perhaps the epitome of Hollywood's golden age and the memorable film "Casablanca"... an exotic locale near the sea and downtown, soft Arabo-Andalucian architectural lines and lustrous white exterior, reminiscent of Morocco. Plus a detached artist's studio.

\$1,700,000

624-0136



CARMEL VALLEY—Nestled among majestic oaks in a peaceful, private setting you will find this captivating country home. The home features three bedrooms, two and one half baths, an open floor plan, vaulted ceilings, den/office plus a two car garage. Perfect for entertaining with easy access to decks and patios. Breathtaking valley views!

\$993,000

659-2267



PACIFIC GROVE—Situated on a sunny corner lot is this immaculate 2,260 sq. ft. three bedroom, two and one half bath home. In immaculate condition, features include an open floor plan with lots of natural light, separate dining and family room, sunroom and a spacious master bedroom suite. Two-car garage with easy access off of alley. Great neighborhood, close to everything!

\$849,000

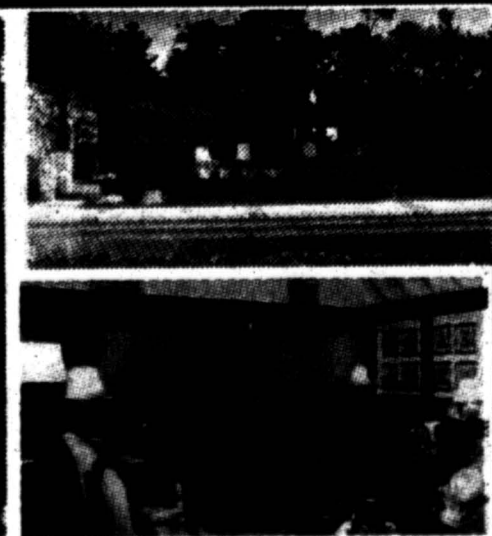
646-2120



PEBBLE BEACH ~ \$5,800,000

Just a short stroll to the Lodge, golf, or the Equestrian Center, this property is on two legal lots of record at the end of a cul-de-sac. In addition to this four bedroom, four and one-half bath home, there is a separate guest house, tennis court and swimming pool. All of this is on a flat two-acre parcel with lawn, beautiful oaks and a prolific rose garden.

624-6482



OFFICE LOCATIONS

Dolores at 7th, Carmel-by-the-Sea
624-0136

Dolores, South of 7th, Carmel-by-the-Sea
624-6482

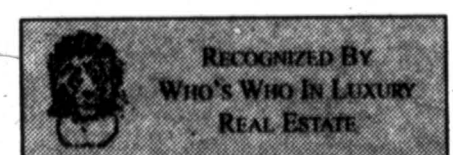
200 Clocktower Place, Suite #100D, Carmel
624-1566

312 W. Carmel Valley Road, Carmel Valley
659-2267

1157 Forest Avenue, Pacific Grove
646-2120

OPEN HOUSES

For a list of our Open Houses
this Weekend
Please turn to the Directory
on Page 6B



WWW.MITCHELLGROUP.COM

REAL ESTATE

Carmel Valley resort gets expensive redo

By MARY BROWNFIELD

AN 18-HOLE putting course, miles of walking trails — some for meditating, some for exercising — remodeled hotel rooms and myriad other changes will commence at Quail Lodge beginning this month.

The lodge, the Covey restaurant and the clubhouse serving the golf course and tennis courts will undergo a \$25 million renovation, Valley Resort Management Managing Director Jim Cecil said.

Although the golf course will remain open throughout, the clubhouse will close Jan. 6, with the hotel and restaurant shuttering after the AT&T Pebble Beach National Pro-Am winds up in early February, according to Cecil. All the facilities at Quail Lodge are planned to reopen by June 15.

"Overall, we're correcting all of the infrastructure issues that an older property has," Cecil said. "And all of the public spaces are being significantly upgraded to reflect today's luxury. We're certainly doing it in Quail's way of reflecting Carmel and Carmel style."

Work at the lodge will include day beds in new bay windows in the 100 hotel rooms — 24 of which have already undergone renovation — completely redone bathrooms, and a

rebuilt pool with areas around it for yoga and other activities.

The clubhouse will be gutted to feature new meeting areas, a restaurant, a new wellness center that will provide sports medicine and services to members and guests, and other amenities. A redesign of the parking lot is also planned.

"They can come and get blood work done, learn about body fat and be put on a treatment schedule that helps them live longer and play golf longer," Cecil explained.

Adding to that ability to sustain a healthy lifestyle will be the miles of walking and wellness trails that will wind through some of the 180 acres of hillside behind the clubhouse.

"One trail will be like a parcourse where you can go for exercise, and the other is more of a meditation trail where you might walk and find a labyrinth, or a spot to stop and read a book, or encounter a creative garden," he said.

The lodge and clubhouse will reopen just in time for The Quail, the Aug. 15 sportscar and racing car event that will replace the outgoing Concorso Italiano, which announced last month it would relocate to Black Horse Golf Course in Seaside.



PHOTO/PAUL MILLER

The clubhouse at Quail Lodge will close Jan. 6 for remodeling. The hotel and The Covey restaurant, with their famous lakeside setting (above), will also close in February for renovation. The golf course will remain open during the work, which is set for completion in June.

Fouratt-Simmons

REAL ESTATE

Big On Experience Yet Small Enough To Worry
About Every Little Detail



SUNNY SAN BENANCIO CANYON: Great privacy, marvelous views on 4 acres...and this country home shows pride of ownership. There are 3 bedrooms, 2.5 baths (including a separate master bedroom suite.) Features include vaulted ceilings, generous room sizes, open floorplan & spacious deck. Washington Union School District. **\$675,000.**

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PEBBLE BEACH. Lovely 9/10 acre vacant lot with filtered ocean views, available water & plans for a 4700 square foot home. **\$2,250,000.**

PASADERA LOT. Build your dream home on this corner lot, located on the beautiful championship golf course designed by Jack Nicklaus. The lot is in a private area of Pasadera surrounded by rolling hills. For your enjoyment, there is a clubhouse, 2 swimming pools, & tennis courts nearby. **\$1,395,500.**

VIEWS GALORE from this vacant lot waiting for your dream home to be built. Plans & permits are in the works. **\$525,000.**



Court of the Golden Bough on Ocean Ave.
between Lincoln & Monte Verde • Carmel

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This exceptional \$4,422,000 home presides over an elevated 10,000 sf lot offering ocean views from its coveted Golden Rectangle location in downtown Carmel-by-the-Sea. Trenching out off the living & dining rooms as well as the guest suites across the large, completely private backyard where the elegant covered terrace provides for relaxed as well as formal dining & entertaining. Sublime and high-end details: 2 marble and limestone fireplaces, a custom chandelier, a built-in bar, and some of the special features of this estate include 4 bedrooms, 4.5 bathrooms, which have been completely remodeled.

Offered at \$4,422,000

Judith Profeta

ALAIN PINEL
REAL ESTATE

COURT

From page 17A

V
The Commission contends that the holding in *Bowsher*, *supra*, 478 U.S. 714 [92 L.Ed.2d 583] is distinguishable and inapplicable in the present case because, under the United States Constitution, Congress has no power to appoint executive officers and no power to remove them other than by the impeachment process (U.S. Const., art. II, § 2, cl. 2, § 4), whereas the California Constitution does not preclude the Legislature from making appointments to executive agencies or exercising the concomitant power of removal from office.

This is not a critical distinction. *Bowsher* did not hold that the separation of powers doctrine was violated simply because Congress lacked the constitutional authority to remove an executive officer except by impeachment. The doctrine was violated because Congress's ability to remove the Comptroller General virtually at will interfered with the execution of the laws, a matter plainly outside the Congressional sphere. The high court noted that, because the structure of the Constitution does not permit Congress to execute the laws, Congress could not grant to an officer under its control what it did not possess. (*Bowsher*, *supra*, 478 U.S. at p. 726 [92 L.Ed.2d at p. 596].) What is of particular importance to the resolution of the appeal before us is the high court's conclusion that "[t]o permit the execution of the laws to be vested in an officer answerable only to [the legislative branch] would, in practical terms, reserve in [that branch] control over the execution of the laws." (*Ibid.*) This commonsense principle applies with equal force to our state separation of powers determination that the appointment mechanism for the Commission, an executive branch agency, materially impairs one of its core functions, namely execution of the law.

The Commission also argues that Marine Forests's constitutional challenge is infirm because it has not presented an "as applied" challenge or made any factual allegations that the Legislature has directed or dictated the actions of its appointees; rather, it has made a facial challenge and thus must demonstrate that the statute's provisions "inevitably pose a present total and fatal conflict with applicable constitutional prohibitions." (Quoting *Pacific Legal Foundation v. Brown*, *supra*, 29 Cal.3d at p. 181.)

However, Marine Forests does not need to demonstrate that the legislative appointing authorities have attempted to interfere with the Commission members' execution of the Coastal Act. It is the Commission members' presumed desire to avoid removal—by pleasing their legislative appointing authorities—which creates the subservience to another branch that raises separation of powers problems. (*Bowsher*, *supra*, 478 U.S. at p. 727, fn. 5 [92 L.Ed.2d at p. 597]; *MWAA v. CAAN*, *supra*, 501 U.S. at p. 269, fn. 15 [115 L.Ed.2d at p. 254].) As noted previously, "[t]o permit the execution of the laws to be vested in an officer answerable only to [the legislative branch] would, in practical terms,

reserve in [that branch] control over the execution of the laws." (*Bowsher*, *supra*, 478 U.S. at p. 726 [92 L.Ed.2d at p. 596].) Thus, this is not simply a hypothetical problem as the Commission suggests. (Footnote 5.)

The Commission intimates that there is no problem with the Coastal Act's appointment mechanism because the Governor signed, and therefore approved of, the legislation giving the legislative branch the ability to appoint and remove at will the majority of the voting members of the Commission. But "the Governor can no more concede executive power to a legislative committee than a committee can be permitted to usurp it. [Citations.] And the Governor's consent to an unlawful legislative act does not val-

...the trial court acted properly in enjoining the Commission from granting, denying, or conditioning permits...

idate the act. [Citations.]" (*Radioactive Materials*, *supra*, 15 Cal.App.4th at pp. 873-874.) Hence, the Governor's approval of an appointment structure that interferes with the executive power does not rectify its constitutional infirmity.

Pointing out administrative agencies in which fewer than a majority of the members are appointed by the Governor or in which members are removable at will, the Commission argues that this demonstrates there is nothing unique about the setup of the Commission and, thus, there is no separation of powers violation. However, the Commission does not point to any administrative agency that (1) performs executive functions as opposed to merely gathering information and making policy recommendations, which are incidental to legislative functions, and (2) for which the Legislature appoints a majority of the members and may remove them at will. In any event, even if other administrative agencies exist with an appointment structure similar to that of the Commission, this does not establish there is no separation of powers violation in the present case.

We note that in *Parker v. Riley* (1941) 18 Cal.2d 83, the California Supreme Court concluded the fact that the Commission on Interstate Cooperation was comprised of five members of the Senate Committee on Interstate Cooperation, five members of the Assembly Committee on Interstate Cooperation, and five members appointed by the Governor did not violate the separation of powers provisions of the California Constitution, or violate the constitutional prohibition against legislators holding other offices or positions of trust. (*Id.* at pp. 85, 87-90.) This was so because the duties imposed on said commission were incidental and ancillary to the lawmaking functions of the Legislature. (*Id.* at pp. 88-89.) However, the Supreme Court warned "[i]t must not be assumed . . . that legislative activities may be expanded indefinitely through the creation of separate agencies responsible primarily to the legislature. This sort of expansion would soon lead to a legislative usurpation of power incompatible with the proper exercise of its lawmaking function." (*Parker v. Riley*, *supra*, 18

Cal.2d at p. 88.)

The appointment mechanism specified in the Coastal Act is just such an impermissible expansion. It materially impairs the executive power's ultimate authority over the execution of the laws because it allows the legislative branch to retain majority control over the Commission's implementation of the Coastal Act, and the Commission's duties are not limited to those that are incidental and ancillary to the lawmaking functions of the legislature.

Because the majority of the Commission's voting members are controlled by the legislative branch, the separation of powers doctrine precludes the Commission from being entrusted with the exercise of executive powers or of quasi-judicial powers that are incidental to the executive function of implementing the law. (Cf. *Bowsher*, *supra*, 478 U.S. at pp. 726, 732 [92 L.Ed.2d at p. 596-597, 600].) Accordingly, the trial court acted properly in enjoining the Commission from granting, denying, or conditioning permits, and from issuing and hearing cease and desist orders. (Footnote 6.)

VI

It is appropriate here to emphasize that our legal conclusion—that the process for appointing voting members of the Commission violates the separation of powers doctrine—is lim-

See DECISION page 8B

COLDWELL BANKER

DEL MONTE

Wonderful Carmel Craftsman

Boasting an ocean view and located in the prime "Golden Rectangle" of Carmel you will find this wonderful 3-bedroom, 2-1/2-bath shingle-sided home built by Tescher Construction. The home is privately situated on an oversized parcel only blocks from the beach and downtown shopping. Amenities include: wood-beamed ceilings, hardwood floors, three fireplaces, (wonderful river-rock fireplace in the living room), south-facing redwood decks, hot tub, and oversized single-car garage. This is a rare offering. You will be proud to call this your own.

\$2,175,000



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HAPPY NEW YEAR!

May your year be filled with Good Health, Happiness, Love and Abundance.

Be sure to set your goals for this next year. Focus attention on your goals for 20 minutes a day, believe in, and visualize yourself reaching your goals. Keep in mind that "What you can believe, you can achieve."

Thanks to my Family, Friends, and Clients for a FANTASTIC 2002.
I look forward to an even better 2003.



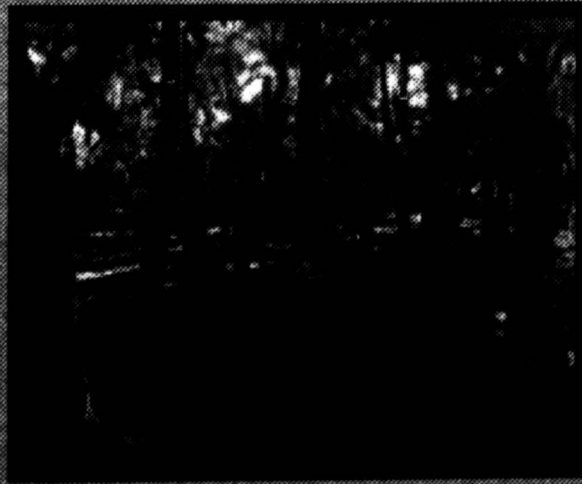
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MONTEREY/SALINAS HWY.

If privacy is what matters, then privacy is what you will get. Sitting on 23+/- acres, this 3 bedroom, 2 bath home has a canyon as backdrop. Approx. 2 acres of flat space for horses. Lots of activity on this one.

\$750,000



PEBBLE BEACH LOT

Available lot located on a quiet cul-de-sac estimated at 28 acres. MPWMD has confirmed the lot has been approved for 246 acre feet of water. Call J.R. today to make this great lot yours. Here's your chance to build your dream home with a Pebble Beach address.

\$850,000



SEASIDE

This fixer with its filtered views from the roof of Monterey Bay is waiting for the buyer that will remodel or rebuild. A great project just waiting for the right buyer. Are you the one? Appointment only. Asking...

\$309,000



SALINAS

This Queen Anne style 3,670 sq. ft. grand residence constructed in 1891 consists of 20 rooms and a carriage house. Recently restored with ample parking, it would make a great executive office, B&B, or private home.

\$1,675,000



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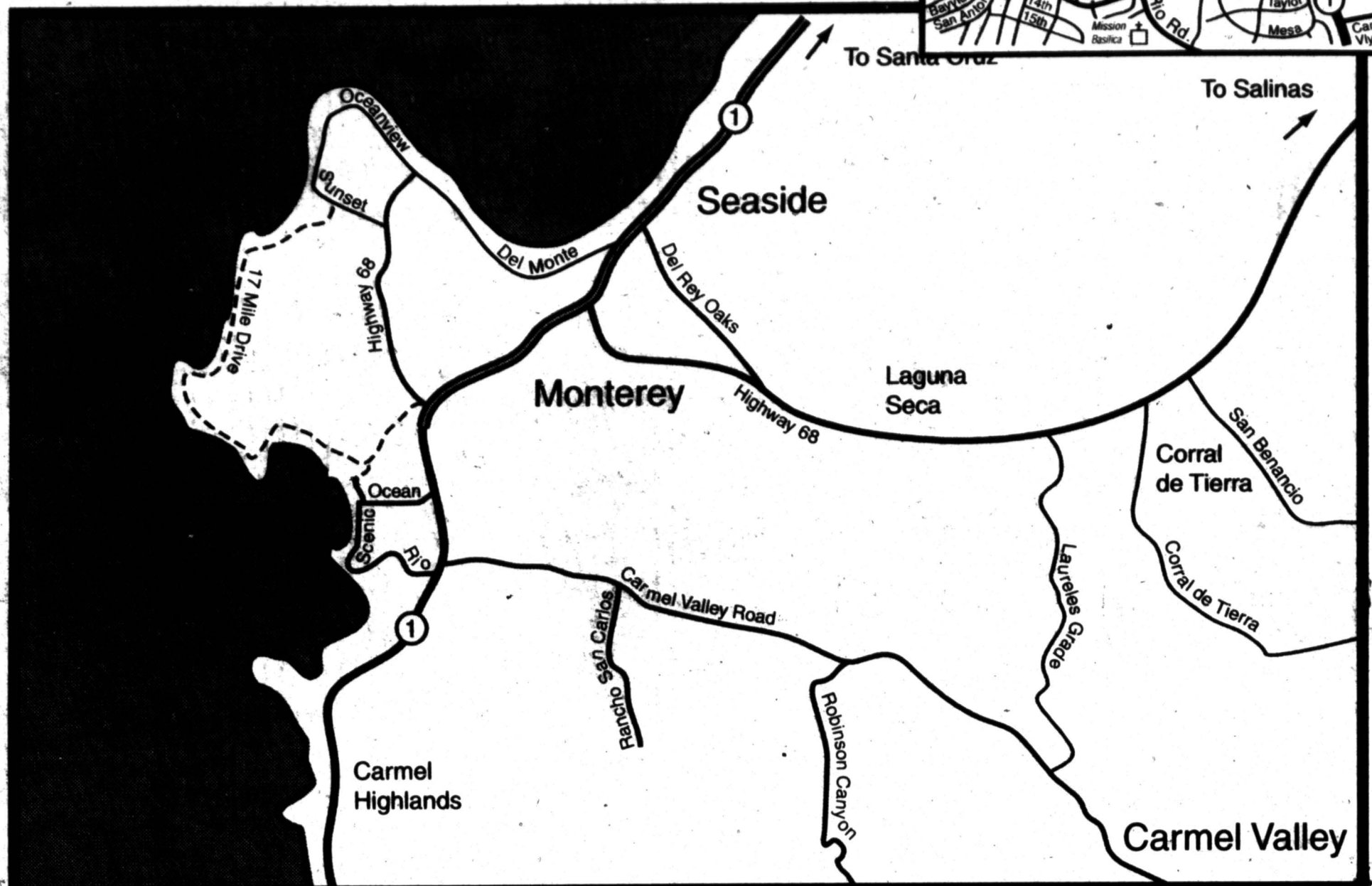
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\$352,000	2bd 2ba	Su 1-4
171 Hacienda Carmel		Carmel
Nations Estates		625-8787
\$648,000	4bd 2ba	Sa 2-3 Su 1-2
3326 Sycamore Place		Carmel
The Mitchell Group		624-6482
\$659,000	4bd 2ba	Sa 2-3 Su 1-2
3341 Sycamore Place		Carmel
The Mitchell Group		624-6482
\$690,000	2bd 2ba	Su 2-4
A-8 Cor of Mission & 3rd		Carmel
Coldwell Banker Del Monte		626-2223
\$699,000	3bd 3ba	Sa & Su 1-4
87 High Meadow Lane		Carmel
Coldwell Banker Del Monte		626-2222
\$795,000	2bd 2ba	Su 1:30-3:30
Mission 2 NW 4th		Carmel
Fouratt-Simmons Realty		624-3829
\$799,000	2bd 1ba	Sa & Su 1-4
24964 Valley Way		Carmel
Alain Pinel Realtors		622-1040
\$799,000	2bd 2ba	Sa & Su 2-4
6th Ave 2 SW of Perry Newberry		Carmel
Alain Pinel Realtors		622-1040
\$815,000	2bd 1ba	Sa & Su 1-4
2 SW 2nd & Lobos		Carmel
Alain Pinel Realtors		622-1040
\$875,000	2bd 1.5ba	Sa & Su 2-4
24312 San Juan Rd		Carmel
Burchell House Properties		624-6461
\$899,000	2bd 2ba	Sa 1-4
NW Corner Santa Fe & 8th		Carmel
Alain Pinel Realtors		622-1040
\$899,000	2bd 2ba	Su 2-4
Santa Rita 9 SE of Ocean		Carmel
Coldwell Banker Del Monte		626-2222
\$1,000,000	3bd 2ba	Sa 1-4
24665 Lower Trail		Carmel
The Mitchell Group		624-0136
\$1,275,000	4bd 3ba	Sa 2-4
Monte Verde 3 SW 2nd		Carmel
Fouratt-Simmons Realty		624-3829
\$1,295,000	3bd 2ba	Su 1-3
San Carlos 2 NE of Vista		Carmel
Coldwell Banker Del Monte		626-2223
\$1,350,000	3bd 3.5ba+get ha	Su 1-4
24753 Upper Trail		Carmel
Alain Pinel Realtors		622-1040
\$1,450,000	3bd 2.5ba	Sa 2-4 Su 1-4
Santa Rita 4NW of 2nd (R/C)		Carmel
Burchell House Properties		624-6461
\$1,495,000	3bd 2ba	Sa 1-4
Lincoln SNE of 3rd		Carmel
Alain Pinel Realtors		622-1040
\$1,550,000	2bd 2ba	Sa & Su 2-4
3 NW Lincoln & 10th (rain cancels)		Carmel
John Saar Properties		625-0500
\$1,650,000	3bd 2ba	Sa 1-3
4 NE Casanova/Palou		Carmel
Coldwell Banker Del Monte		626-2221
\$1,694,000	3bd 2ba	Sa Su 2-4
Mission 2 SW of 13th (new const)		Carmel
The Mitchell Group		624-6482
\$1,695,000	3bd 3ba	Sa 1-3 Su 3-4
NE Corner of 4th & Torres		Carmel
The Mitchell Group		624-0136
\$1,700,000	3bd 2ba	Sa 1-3 Su 11-3
NE Corner Dolores & 13th		Carmel
The Mitchell Group		624-6482
\$1,895,000	3bd 2ba	Sa 1-3
Junipero 3 SW of 11th		Carmel
Coldwell Banker Del Monte		626-2222
\$1,999,000	3bd 3ba	Sa 1-4
2760 Ribera		Carmel
Alain Pinel Realtors		622-1040
\$2,095,000	3bd 2.5ba	Sa 2-3 Su 1-3
Lincoln 2 SW of 12th		Carmel
The Mitchell Group		624-6482
\$2,195,000	3bd 2ba	Sa Su 2-4
Lincoln & 12th SW Cor (new const)		Carmel
The Mitchell Group		624-0136
\$2,195,000	3bd 2.5ba	Su 1-3
3 NE 11th & Camino Real		Carmel
Burchell House Properties		624-6461
\$2,250,000	2bd+ 2ba	Su 2-4
2384 Bayview Ave		Carmel
Coldwell Banker Del Monte		622-2511
\$2,350,000	4bd 3ba	Sa Su 12-3
26337 Carmelo Street		Carmel
The Mitchell Group		624-0136
\$2,550,000	3bd 3.5ba	Su 1-3
Carmelo 12th SW Cor		Carmel
Coldwell Banker Del Monte		626-2222
\$2,995,000	5bd 4ba	Sa 1-4
2807 14th Avenue		Carmel
Alain Pinel Realtors		622-1040
\$2,995,000	5bd 4ba	Su 1-4
2807 14th Avenue		Carmel
Alain Pinel Realtors		622-1040
\$3,295,000	3bd 3.5ba	Su 1-4
5125 Paso Venado		Carmel
Alain Pinel Realtors		622-1040

THIS WEEKEND'S OPEN HOUSES January 4-5

**CARMEL VALLEY**

\$289,000	1bd 1ba	Su 1:30-3:30
#175 Hacienda Carmel		Carmel Valley
Fouratt-Simmons Realty		624-3829
\$619,000	2bd 2ba	Su 1:30-3:30
167 El Caminito		Carmel Valley
The Mitchell Group		659-2267
\$950,000	3bd 3.5ba	Su 1-4
26102 Carmel Knolls Dr		Carmel Valley
Coldwell Banker Del Monte		649-6225
\$950,000	3bd 2ba	Su 1-4
270 El Caminito		Carmel Valley
Alain Pinel Realtors		622-1040
\$995,000	3bd 3.5ba	Sa & Su 1-3
28089 Barn Court		Carmel Valley
Coldwell Banker Del Monte		626-2222
\$1,099,000	3bd 3ba	Su 2-4
9621 Homestead		Carmel Valley
Alain Pinel Realtors		622-1040
\$1,379,000	3bd 2ba	Sa & Su 1-3
26044 Rio Vista Dr		Carmel Valley
Coldwell Banker Del Monte		626-2222
\$1,449,000	4bd 3.5ba	Su 2:30-4
26245 Rinconada Drive		Carmel Valley
The Mitchell Group		659-2267
\$1,495,000	3bd 2.5ba	Su 2-4
8060 Lake Place		Carmel Valley
Alain Pinel Realtors		622-1040
\$1,550,000	4bd 3.5ba	Su 2-4
27994 Mercurio (rain cancels)		Carmel Valley
John Saar Properties		625-0500
\$2,500,000	4bd 3.5ba	Su 12-3
35182 Sky Ranch		Carmel Valley
The Mitchell Group		659-2267

CARMEL HIGHLANDS

\$2,595,000	3bd 3.5ba	Sa 1-3 Su 12-2
16 Mal Paso Rd		Carmel Highland
Coldwell Banker Del Monte		626-2222

MARINA

\$452,000	4bd 2ba	Su 1-4
3104 Fehring Place		Marina
Coldwell Banker Del Monte		626-2222

MONTEREY

\$575,000	2bd 2ba	Su 1-3
89 Via Descanso		Monterey
Coldwell Banker Del Monte		626-2222

\$765,000	2bd 2ba	Su 2-4
80 Via Buena Vista		Monterey
Burchell House Properties		624-6461
\$779,000	4bd 2.5ba	Sa 12-2
2 Forest Vale Place		Monterey
The Mitchell Group		646-2120
\$995,000	3bd 3ba	Su 12-3
6 White Tail		Monterey
Coldwell Banker Del Monte		626-2222
\$1,050,000	3bd 2.5ba	Sa 2:30-4:30
6 Huckleberry Court		Monterey
The Mitchell Group		646-2120

MTRY/SALINAS HWY.

\$750,000	3bd 2ba+acres	Su 1-4
18301 Corral de Tierra (rain cancels)		Mtry/Sins Hwy
John Saar Properties		625-0500
\$995,000	3bd 2.5ba	Sa 1-3
12327 Maravilla Dr		Mtry/Sins Hwy
Coldwell Banker Del Monte		626-2221
\$1,049,000	3bd 3ba	Su 12-2
189 Pine Canyon		Mtry/Sins Hwy
The Mitchell Group		659-2267
\$1,545,000	4bd 3.5ba	Sa 1-3
405 Estrella d'Oro		Mtry/Sins Hwy
Alain Pinel Realtors		622-1040
\$2,100,000	5bd 4.5ba	Su 2-4
25926 Puente Del Cajon		Mtry/Sins Hwy
Prudential Carmel		624-9043

N. MTRY. COUNTY

\$599,000	3bd 2ba	Sa 12-3
887A Holly Hills		N Mtry County
Alain Pinel Realtors		622-1040

PACIFIC GROVE

\$495,000	2bd 1ba	Su 2-4
954 Syda Drive		Pacific Grove
The Mitchell Group		646-2120
\$589,000	2bd 1ba	Sa & Su 1-4
405 Carmel Avenue		Pacific Grove
Alain Pinel Realtors		622-1040
\$625,000	3bd 1.5ba	Sa 12-2
251 Cedar		Pacific Grove
Coldwell Banker Del Monte		626-2226
\$895,000	3bd 2ba	Su 1-3
908 Laurie Cir		Pacific Grove
Coldwell Banker Del Monte		626-2221
\$749,000	3bd 2.5ba	Sa 1-4 Su 1-3
142-14th St		Pacific Grove
Coldwell Banker Del Monte		626-2222
\$799,000	3bd 2.5ba	Sa Su 1-3
714 Hillcrest Avenue		Pacific Grove
The Mitchell Group		646-2120
\$799,000	3bd 1.5ba	Su 1-3
1231 Surf		Pacific Grove
Coldwell Banker Del Monte		626-2222

PACIFIC GROVE

\$895,000	2bd 2ba	Sa Su 1:30-3
1023 Balboa Ave (rain cancels)		Pacific Grove
The Mitchell Group		646-2120
\$1,495,000	4bd 3.5ba	Sa 12-3
923 14th St (rain cancels)		Pacific Grove
The Mitchell Group		646-2120

PEBBLE BEACH

\$659,000	2bd 2ba	Sa Su 11-1
4189 Crest		Pebble Beach
Alain Pinel Realtors		622-1040
\$790,000	2bd 2ba	Su 2-4
1044 Sawmill Gulch		Pebble Beach
Coldwell Banker Del Monte		626-2223
\$825,000	3bd 3ba	Sa Su 1-4
14 Shepherd's Knoll (rain cancels)		Pebble Beach
The Mitchell Group		624-6482
\$895,000	3bd 3ba	Sa & Su 1-4
63 Ocean Pines - Sandpiper		Pebble Beach
Alain Pinel Realtors		622-1040
\$925,000	4bd 3ba	Sa & Su 1-4
4030 Costado Place rain cancels		Pebble Beach
John Saar Properties		625-0500
\$930,000	3bd 3ba	Su 12-3
3080 Larkin		Pebble Beach
Alain Pinel Realtors		622-1040
\$965,000	3bd 2.5ba	Sa Su 12-2:30
4154 El Bosque (rain cancels)		Pebble Beach
The Mitchell Group		624-0136
\$1,175,000	3bd 2.5ba	Su 2-4
3036 Valdez		Pebble Beach
Coldwell Banker Del Monte		626-2221
\$1,175,000	3bd 3.5ba	Su 1-3
4139 Sunridge Rd		Pebble Beach
Coldwell Banker Del Monte		626-2222
\$3,250,000	3bd 3.5ba	Su 1-3
77 Spanish Bay Cir		Pebble Beach
Coldwell Banker Del Monte		626-2221
\$3,395,000	3bd 2.5ba	Sa & Su 1-4
1651 Crespi (rain cancels)		Pebble Beach
Alain Pinel Realtors		622-1040
\$3,950,000	4bd 3.5ba	Sa & Su 1-4
1205 Benbow		Pebble Beach
Alain Pinel Realtors		622-1040
\$4,995,000	5bd 4ba+get	Sa 12-2 Su 1-3
1548 Viscaino Rd		Pebble Beach
Coldwell Banker Del Monte		626-2222

SEASIDE

\$335,000	3bd 1.5ba	Sa & Su 1-3
1676 Vallejo St		Seaside
Burchell House Properties		624-6461

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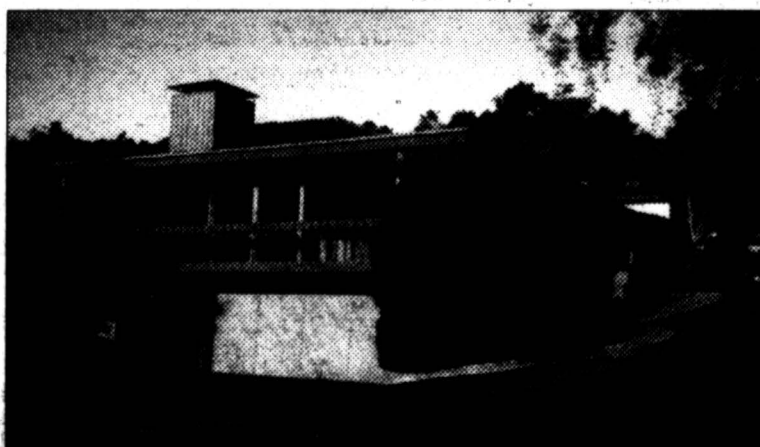
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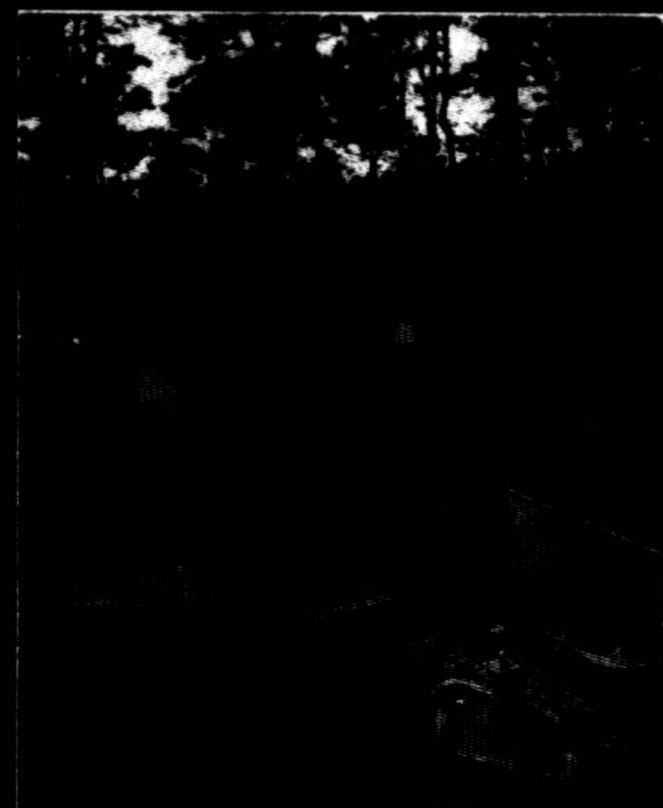
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DECISION

From page 5B

ited to the specific facts of this case, where a majority of the Commission's voting members are appointed by the legislative branch and may be removed at the pleasure of the legislative branch and there are no safeguards protecting against the Legislature's ability to use this authority to interfere with the Commission members' executive power to execute the laws. We express no opinion regarding the propriety of legislative appointments to administrative agencies under circumstances different than presented here.

We also note that Marine Forests made a timely separation of powers objection and pursued its remedies in a timely manner. (See *Moffat v. Moffat* (1980) 27 Cal.3d 645, 656 [the waiver rule may preclude a party from making a collateral attack on proceeding in which the party participated without objection]; *Armstrong v. Armstrong* (1976) 15 Cal.3d 942, 950-951 [same]; see also *Ryder v. United States* (1995) 515 U.S. 177, 182-183 [132 L.Ed.2d 136, 143] ["one who makes a timely challenge to the constitutional validity of the appointment of an officer who adjudicates his case is entitled to a decision on the merits of the question and whatever relief may be appropriate if a violation indeed occurred"].)

We need not, and do not, consider the rights and interests of other parties to prior

actions of the Commission.

DISPOSITION

The judgment is affirmed. The trial court is directed to vacate the stay that it issued.

SCOTLAND, P.J.

We concur:

DAVIS, J.
ROBIE, J.

Footnotes:

1. We grant the Commission's request for judicial notice of a portion of the ballot pamphlet, and the Report of the California Constitution Revision Commission concerning the repeal of former article XX, section 4, and a portion of the ballot pamphlet concerning the repeal of former article XX, section 16. (*Horwich v. Superior Court* (1999) 21 Cal.4th 272, 277, fn. 4.)

2. In contrast, article 2, section 2, clause 2 of the United States Constitution provides that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in

the President alone, in the courts of law, or in the heads of departments."

3. Amicus curiae, Signal Landmark and Hearthside Homes (Signal), argues that the Legislature no longer has the power to make appointments because the constitutional provision regarding this power was repealed. Accordingly, Signal construes Government Code section 1300 as granting to the Governor the power of appointment previously held by the Legislature. We disagree. Restrictions on the authority of the Legislature must be narrowly construed, and limitations that are not established expressly or by necessary implication cannot be imposed. (*Pacific Legal Foundation v. Brown* (1981) 29 Cal.3d 168, 180.) The history of the repeal of former section 4 of article XX, set forth in the body of this opinion, indicates that the People did not intend to deprive the Legislature of the ability to reserve the power of appointment to itself. Moreover, as the Supreme Court repeatedly has stated, we do not look to [California's] Constitution to determine whether the legislature is authorized to do an act, but only to see if it is prohibited. In other words, unless restrained by constitutional provision, the legislature is vested with the whole of the legislative power of the state." (*Fitts v. Superior Court* (1936) 6 Cal.2d 230, 234; accord, *Collins v. Riley* (1944) 24 Cal.2d 912, 916; see also *California Housing Finance Agency v. Patitucci* (1978) 22 Cal.3d 171, 175 ["the California Constitution, unlike its federal counterpart, is a limitation or restriction on the powers of the Legislature, rather than a grant of power to it"].) Hence, the repeal of former section 4 of article XX had no effect on the Legislature's power of appointment because nothing in the California Constitution grants to the Governor the sole or paramount power of appointment or prohibits the Legislature from exercising such power, which is not inherently an executive function.

(*People v. Freeman*, *supra*, 80 Cal. at pp. 235-236.) Furthermore, Signal has misinterpreted the effect of Government Code section 1300. First, the plain language of section 1300 discloses the Governor does not have a superior right to that of the Legislature to appoint the officers of administrative agencies. Second, section 1300 is a statutory provision, and it is within the prerogative of the Legislature to alter its application through a subsequently enacted and more specific statute.

4. The California Supreme Court noted that *Bowsher* "might cast doubt" on the Legislature's authority to enact a statute vesting the legislative branch with the unilateral power to remove an agency director from office by joint resolution, but the court "put[] aside" the question of whether it was bound to adopt the reasoning of the United States Supreme Court in interpreting the California Constitution's separation of powers clause. (*Carmel Valley*, 25 Cal.4th at p. 305.)

5. Amici curiae ask us to take judicial notice of evidence they submitted as purported examples of the Legislature's interference with Commission members' execution of their duties. The Commission opposes this request on various grounds. Because we have concluded that Marine Forests need not demonstrate that any actual interference has occurred, the request for judicial notice is denied.

6. Amicus curiae briefs have been filed by numerous entities. To the extent those briefs raise arguments that are not presented in Marine Forests's petition for writ of mandate, or raise arguments that were not tendered in the trial court, we decline to address them. (*California Assn. for Safety Education v. Brown* (1994) 30 Cal.App.4th 1264, 1274-1275 [amicus curiae must accept the issues urged by the appealing parties, and any additional questions presented in a brief filed by an amicus curiae will not be considered].)

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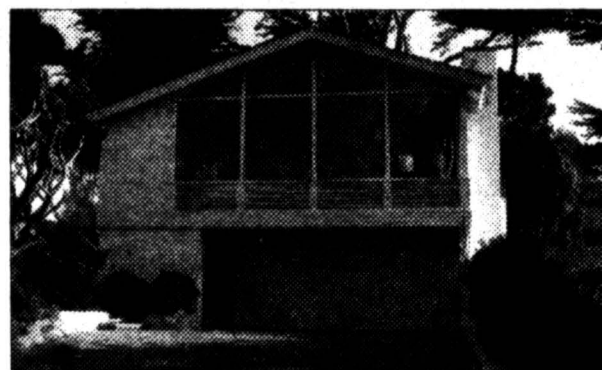


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FICTITIOUS BUSINESS NAME STATEMENT File No. 20022386. The following person(s) is(are) doing business as: **DENTAL PLAN USA**, P.O. Box 2001, Salinas, CA 93902; 20 Russell Rd. #5, Salinas, CA 93906. IGNACIO GONZALES, 20 Russell Rd. #55, Salinas, CA 93906. This business is conducted by an individual. Registrant commenced to transact business under the fictitious business name listed above on Nov. 26, 2002. (s) Ignacio Gonzales. This statement was filed with the County Clerk of Monterey County on Nov. 26, 2002. Publication dates: Dec. 20, 27, 2002, Jan. 3, 10, 2002. (PC 1210)

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#202, Ventura, CA 93003. RHONDA VALONA, 621 Warwick #4, Thousand Oaks, CA 91360. This business is conducted by an individual. (s) Rhonda Valona. This statement was filed with the County Clerk of Monterey County on Nov. 14, 2002. Publication dates: Dec. 13, 20, 27, 2002, Jan. 3, 2002. (PC 1211)

FICTITIOUS BUSINESS NAME STATEMENT File No. 20022503. The following person(s) is(are) doing business as: **TERRA BELLA**, 209 Casa Verde Way, Monterey, CA 93940. ROSEMARY BRUNO, 209 Casa Verde Way, Monterey, CA 93940. This business is conducted by an individual. Registrant commenced to transact business under the fictitious business name listed above on June 10, 1994. (s) R. Bruno. This statement was filed with the County Clerk of Monterey County on Dec. 19, 2002. Publication dates: Dec. 27, 2002, Jan. 3, 10, 17, 2003. (PC 1217)

FICTITIOUS BUSINESS NAME STATEMENT File No. 20022537. The following person(s) is(are) doing business as: **CURVES OF CARMEL**, 26360 Carmel Rancho Lane, Carmel, CA 93923. JOY FEHRING ROBERTS, 156 Montclair Dr., Santa Cruz, CA 95060 and GORDON C. ROBERTS, 156 Montclair Dr., Santa Cruz, CA 95060. This business is conducted by a husband and wife. Registrant commenced to transact business under the fictitious business name

listed above on January 13, 2003. (s) Gordon C. Roberts. This statement was filed with the County Clerk of Monterey County on Dec. 27, 2002. Publication dates: Jan. 3, 10, 17, 24, 2003. (PC 101)

FICTITIOUS BUSINESS NAME STATEMENT File No. 20022515. The following person(s) is(are) doing business as: **THE CARMEL COLLECTION JERRY WARNER**, 26326 Carmel Rancho Lane, Carmel, CA 93922. JERRY WARNER, 2109 Golden Oaks, Monterey, CA 93940. This business is conducted by an individual. Registrant commenced to transact business under the fictitious business name listed above on - Not Currently. (s) Jerry Warner. This statement was filed with the County Clerk of Monterey County on Dec. 23, 2002. Publication dates: Jan. 3, 10, 17, 24, 2003. (PC 102)

Loan No. 9023153380
Trustee Sale No. 28778
Title Order No. 0216005-60
APN 412-111-003-000

NOTICE OF TRUSTEE'S SALE

YOU ARE IN DEFAULT UNDER A DEED OF TRUST DATED 12/23/1999. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN

EXPLANATION OF THE NATURE OF THE PROCEEDINGS AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

On 01/23/2003 at 10:00 A.M., DSL Service Company, as the duly appointed Trustee under and pursuant to Deed of Trust Recorded on 01/06/2000, Instrument 00-00923 of official records in the Office of the Recorder of Monterey County, California, executed by: Ralph Cardoza, an unmarried man, as Trustor. Downey Savings and Loan Association, F.A., as Beneficiary. WILL SELL AT PUBLIC AUCTION TO THE HIGHEST BIDDER FOR CASH (payable at time of sale in lawful money of the United States, by cash, a cashier's check drawn by a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in section 5102 of the Financial Code and authorized to do business in this state). At the main (South) entrance to the County Courthouse, (facing the Courtyard off Church St.), 240 Church Street, Salinas, CA all right, title and interest conveyed to and now held by it under said Deed of Trust in the property situated in said County, California describing the land therein: As more fully described in said Deed of Trust. The property heretofore described is being sold "as is". The street address of the real property described above is purported to be: 14465 Ridgcrest Road, Watsonville, CA 95076. The under-

signed Trustee disclaims any liability for any incorrectness of the street address and other common designation, if any, shown herein. Said sale will be made, but without covenant or warranty, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by said Deed of Trust, with interest thereon, as provided in said note(s), advances, if any, under the terms of the Deed of Trust, estimated fees, charges and expenses of the Trustee and of the trusts created by said Deed of Trust, to-wit: \$186,366.17 (Estimated) Accrued interest and additional advances, if any, will increase this figure prior to sale. The beneficiary under said Deed of Trust heretofore executed and delivered to the undersigned a written Declaration of Default and Demand for Sale, and a written Notice of Default and Election to Sell. The undersigned caused said Notice of Default and Election to Sell to be recorded in the county where the real property is located and more than three months have elapsed since such recordation. DATE: 12/24/2002.

Foreclosure Consultants, Inc. is a debt collector attempting to collect a debt. Any information obtained will be used for that purpose. For: DSL Service Company, as Trustee By: Foreclosure Consultants, Inc., as Agent 22687 Old Canal Road, Yorba Linda, CA 92887 Telephone Number: (714) 282-2424 Sale Line Information: (714) 282-2430 Vivian Prieto, Vice President RSV# 44420 01/03/03, 01/10/03, 01/17/03

Publication Dates: Jan. 3, 10, 17, 2003. (PC103)

NOTICE OF APPLICATION FOR CHANGE IN OWNERSHIP OF ALCOHOLIC BEVERAGE LICENSE. Date of Filing Application: Dec. 26, 2002. To Whom It May Concern: The Name of the Applicant is: **AUBERGE CARMEL LLC**. The applicant listed above is applying to the Department of Alcoholic Beverage Control to sell alcoholic beverages at: **MONTE VERDE & SEVENTH ST N/E COR, CARMEL, CA 93923**. Type of license applied for: **41 ON-SALE BEER AND WINE - EATING PLACE**. Publication dates: January 3, 2003. (PC104)

FICTITIOUS BUSINESS NAME STATEMENT File No. 20022513. The following person(s) is(are) doing business as: **DEWEY PEST CONTROL**, 781 Maybury Road, San Jose, CA 95133-1018. DEWEY SERVICES, INCORPORATED, a California Corporation, 939 East Union Street, Pasadena, CA 91106. This business is conducted by a corporation. Registrant commenced to transact business under the fictitious business name listed above on Jan. 1, 1983. (s) Ron Pelham, President, Dewey Services, Inc.. This statement was filed with the County Clerk of Monterey County on Dec. 23, 2002. Publication dates: Jan. 3, 10, 17, 24, 2003. (PC 105)

POLICE LOG

From page 4A

ter over the fax machine offering her money. She believed the faxed letter was a "scam" and notified law enforcement.

Carmel area: Unknown person(s) entered an unsecured and unattended parked vehicle on an access road in front of the Bay School. Taken was a woman's handbag left in view. Inside of this handbag were two Visa cards, one Mastercard and two checkbooks from Wells Fargo Bank and the Monterey County Credit Union.

Carmel Valley: Assistant manager at Mid-Valley Safeway reported there were two males and two females who were acting suspicious and had a shopping cart with large amounts of meat and alcohol. The suspicious persons left the market without purchasing anything.

Carmel area: Outlook Place resident reported the theft of a diamond ring. She suspected the furniture delivery man.

Carmel area: Fisher Place resident reported he is having ongoing problems with his stepson.

TUESDAY, DECEMBER 24

Carmel-by-the-Sea: Subject came into the station and advised he is currently in the process of a divorce from his wife. Their first court date is 01/17/03 and there are no court orders regarding child custody or visitation. He advised that his attorney made arrangements for a two-hour visit with the children at a neighbor's house on Christmas Eve, but the neighbor called and told him she was ill and did not want them to come to her residence. Reviewed the papers he had with him and deter-

mined there was no violation of court orders regarding the refusal. Advised him to contact his attorney and make visitation arrangements through the court and at a location where it can be enforceable.

Carmel-by-the-Sea: Report of petty theft from an FL60 Freightliner at Carmel Chevron at Junipero and Fourth. Taken were \$150 worth of miscellaneous items.

Pebble Beach: Laurel Lane resident reported an unknown person used her social security number.

Carmel Valley: Male attempted suicide by hanging himself from a tree. He was transported to CHOMP for 5150 W&I evaluation.

Carmel Valley: Female requested a welfare check on her daughter's depressed boyfriend. The Paso Hondo resident was found to be OK.


Carmel Valley: CHP requested a welfare check on two elderly women at a Carmel Valley Road residence. Both were fine. Advised them not to store flammable materials next to their cooking stove.

CHRISTMAS DAY

Carmel-by-the-Sea: Consensual contact made on pedestrians at Scenic and Ninth at 0300 hours. Informed them that the beach was closed. They stated they knew and understood. They said they were just watching the waves from the sidewalk.

Carmel-by-the-Sea: Responded to a major water leak at Mission and Fifth. Located a geyser of water forcefully gushing out of the asphalt surface of the roadway and striking the bottom of a vehicle parked at that location. The vehicle was moved and

See **POLICE LOG** page 10B



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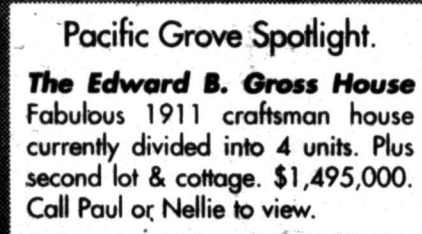
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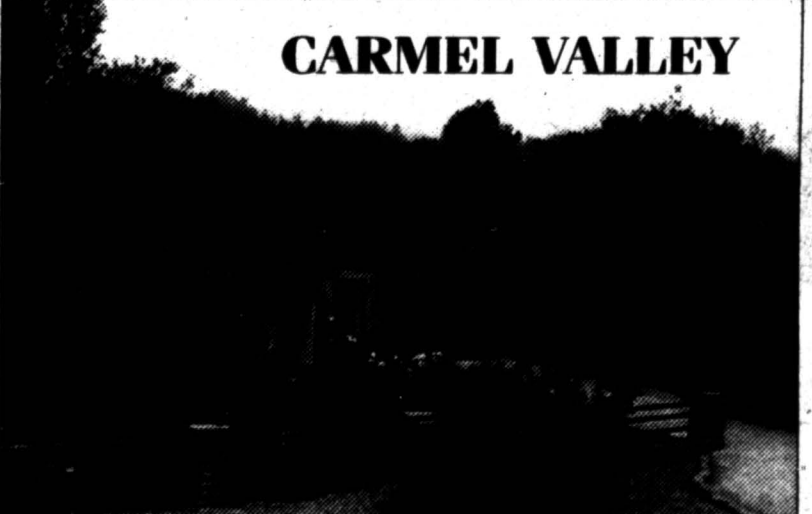
Paul and Nellie Brocchini

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POLICE LOG

From page 9B

the underground broken water main produced a 50-foot geyser. Cal-Am was notified and responded with an emergency repair crew.

Carmel-by-the-Sea: Male involved in custody dispute said he received a call from his wife's neighbor saying he could visit his children at her residence today. He declined to accept as it would be a violation of their visitation agreement and he felt his wife and the neighbor might have been trying to set him up.

Carmel-by-the-Sea: Los Angeles male, age 37, arrested at San Carlos and 13th for drunk or disorderly.

Carmel Valley: Report of an individual slumped over the wheel of a vehicle parked in a carport at Del Mesa Carmel. Upon arrival found vehicle unoccupied and locked up. Contacted registered owner nearby who was fine.

Carmel area: Highway 1 residents reported their 13-year-old frightened Doberman was stranded halfway down a steep hillside in their backyard on a cliff overlooking the Pacific Ocean. A sergeant crawled down to the Doberman and subsequently pulled the canine to safety.

Carmel area: Two subjects were found on Carmel High School grounds without permission.

THURSDAY, DECEMBER 26

Carmel-by-the-Sea: Assisted a female who tripped on the corner of the cement planter at the edge of the Wells Fargo parking lot, causing her to fall to the ground, striking her face and injuring her nose. CFD responded and she was transported to CHOMP for further evaluation.

Carmel-by-the-Sea: Report of a motorhome parked on the street in front of a Sixth Avenue residence with occupants sleep-

ing inside. Upon arrival, found that a motorhome was present; however, it was parked in the private driveway of the residence and not on the public roadway. Contacted the resident, who stated the motorhome would no longer be parked outside the residence after 01/01/03.

Carmel-by-the-Sea: Report of suspicious circumstances/property damage at Flanders Mansion. Contacted the caretaker.

Carmel Valley: Three male juveniles were cited for vandalizing two cars parked on Hacienda Carmel property. They vandalized the cars on 12/25/02, causing damage estimated at \$6,500, combined.

Carmel area: Unknown person(s) drove four nails into the right rear tire of a vehicle parked in the driveway of a Randal Way residence.

Carmel Valley: Carmel Valley Road resident reported a phone scam where she supposedly won \$200,000,000.

Carmel area: Via Mar Monte resident reported having a domestic dispute with his wife. He decided to leave for the night and stay at a motel.

Big Sur: CHOMP ER advised of a subject that had been battered in a fight at Rocky Point; however, the victim did not want to make a report.

Pebble Beach: Pebble Beach Security requested a vehicle occupied by four subjects be escorted out of the forest due to not paying an entrance fee. Motorist was unaware of such a fee.

Carmel area: Female reported her vehicle was entered and items were stolen from within. Items valued at just over \$100.

FRIDAY, DECEMBER 27

Carmel-by-the-Sea: Report of one planter containing soil and flowers knocked off a brick pillar at Dolores and Sixth during the night. Nobody was seen in the area and no other damage was found on the property. Value was approximately \$100.

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Carmel-by-the-Sea: Contacted a subject sleeping inside a vehicle parked at Del Mar. Advised of CMC and warned.

Carmel-by-the-Sea: Report of a physical altercation at a Monte Verde Street restaurant between employees of a cleaning service. One wanted to take a break and asked someone to bake him a pizza. The other wanted to start on their next job and asked for the keys. The first repeatedly refused and told him to wait. The other got upset, pushed him in the chest and punched him once in his face. No visible injuries and he refused medical attention. Both gave the same statement. The victim declined to press charges.

Carmel-by-the-Sea: Taxi driver reported he had picked up three male adults from Dolores and Fifth and taken them to the 7-11 store at Toro Park to get cash from the ATM to pay for the fare. When the three exited the vehicle, they ran away without paying the fare of \$36. He returned to Carmel, reported the incident and pointed out the vehicle the three had left in Carmel due to being too intoxicated to drive home. Dispatch had just received a call requesting this vehicle be exempted from citation because they had been unable to drive the vehicle due to intoxication and would pick it up in the morning. Called the number and spoke to the subject's mother, who said he was not at home but wanted to pay the \$36 for her son who was home visiting from college. Witnessed the driver receive the \$36 plus \$4 for tip. She agreed to have a conversation with her son concerning the seriousness of the fare skip.

Carmel-by-the-Sea: CPD and CFD units responded to Saks Fifth Avenue on report of an employee stuck in an elevator. Contact was made with the service company for the elevator and assistance was rendered by way of troubleshooting the situation by cellular phone. Subject ultimately freed from the elevator.

Carmel-by-the-Sea: Report of loud music coming from the American Legion on Dolores. Contacted a subject, who stated two bands were playing and that the loudest band had just stopped playing and the second, not-so-loud band was currently playing. Advised the subject that the band could still be heard from outside the American Legion and that someone had called to complain about the sound level. The sound level was turned down.

Pebble Beach: Cited driver at Rhonda and Sunridge and attempted to store vehicle for vehicle code violations, but the tow company from Salinas never arrived.

Pebble Beach: Palmero Road resident reported jewelry was taken from her home.

Carmel Valley: Anonymous person wanted a welfare check on a Pacific Meadows resident. Resident was not at home. After checking with complex management, it was discovered she is normally not at home during the daytime.

Carmel area: Female reported her purse was taken while shopping at the Crossroads Safeway.

Carmel Valley: Via Los Tulares resident reported finding the side door to his residence open after being gone for the day. Check done, nothing suspicious found. Door was not shut completely.

conducted and nothing was found disturbed. Responsible responded and secured the doors.

Carmel-by-the-Sea: Report of a scratch on the edge of the hood of a vehicle parked at Junipero and Sixth.

Carmel Valley: Unknown person(s) stole a Center Street resident's potted plant from her front porch.

Carmel Valley: Checked on a Carmel Valley Road resident after a 911 hangup. The resident was feeling ill so an ambulance was called. The elderly female was transported to CHOMP for observation.

Carmel area: Guadalupe Street resident reported unknown suspect(s) stole his television out of his unlocked truck.

Carmel area: Responded to a physical fight between husband and wife. Neither party had injuries or desired prosecution.

Carmel area: Longs security reported a male and a female entered the store and ran out with numerous items stuffed into their coats. The suspects fled the area in a white compact. Value of loss estimated at just over \$1,000.

Carmel area: Responded



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Justin Chimento
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SATURDAY, DECEMBER 28

Carmel-by-the-Sea: Subject requested assistance in locating his rental vehicle. Vehicle located at Ocean and Lincoln.

Carmel-by-the-Sea: Report of an open door at Wells Fargo Bank. The door was found unlocked, a search of the interior was

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CARMEL HIGHLANDS

AT HOME WITH THE SEA! Crashing waves at your feet, salt spray in the air and miles of rugged coastline are experienced from your cozy 3-bedroom, 2-bath home and guest house. Office exclusive. \$3,695,000.



"WILDCAT COVE!" A stunning Charles Rose designed home that easily captures the drama of the sea from its commanding ocean-side setting. Custom touches abound throughout this gracious 5200 sq. ft. residence in turn key condition. Exceptional at \$5,950,000.

CARMEL VALLEY



BEST OF THE BEST! Impeccably furnished, this turnkey, spacious end "A" unit at Del Mesa has 2 bedrooms, 2 baths, oversized entry, marble floors, brand new kitchen with greenhouse window, and a brand new mas-

ter bath. The carport is just outside the front door. \$695,000.

PACIFIC GROVE



BLOCKS TO THE SANDY SHORES! On a quiet cul-de-sac near Asilomar, you will find among quality-built homes an immaculate single-story 3-bedroom, 2-bath home. With a spacious living & dining room which leads to a private, peaceful outside deck. \$695,000.

DEL MONTE PARK VALUE! You'll see the value immediately in this rare 3-bedroom, 2-bath Del Monte Park cottage. With many newer upgrades, this is one of the best values in Pacific Grove. Located in a good neighborhood near shopping and school. \$529,000.

CUTE & AFFORDABLE! Just two blocks to the beach and one block to town, this Victorian charmer is in turn-key condition. Very livable floor plan offers 2 bedrooms, 2 updated baths, a formal living room and a separate family room-kitchen combo. \$585,000.

PEBBLE BEACH

OCEAN VIEW TOWNHOUSE! Spectacular ocean views from the third story of the "Ocean Pines" complex, from this single-level unit with convenient elevator service. Also high ceiling in the living room, new carpet and floor. \$599,000.

COUNTRY CLUB RETREAT Impeccable inside and out, this 4-bedroom, 3-bath home features a formal entry with double doors, vaulted wood ceilings, spacious rooms, and over 600 sq. ft. of decking overlooking a greenery-filled yard. Three-car garage. \$998,000.



GOLF COURSE MEDITERRANEAN! Old World elegance and the finest design and construction in this recently completed home. Two master suites, 1 bedroom, and a private guest suite with separate entrance. Adjacent to the MPCC golf course. \$2,195,000.

OCEAN VIEWS! Commanding ocean-view home with an expansive deck, secluded grounds, and sweeping sections of glass that invite the outdoors in. Large living room with fireplace, and spacious dining room/kitchen combo, 3 bedrooms, and 3-1/2 baths. \$1,175,000.



SPANISH BAY RESIDENCE! A unique opportunity to enjoy privacy, quality and carefree condominium living. This stylish, ocean-view end-unit of 4000 sq. ft. features 3 bedroom suites, a den and 4th bath. Golf, health spa and Spanish Bay Inn are steps away. \$2,750,000.

ON THE FIRST FAIRWAY Of MPCC's Shore Golf Course is this attractive 3-bedroom, 2-1/2-bath home. Built of solid redwood construction, it features a marbled-floor entry, and wood floors in both the sunken living room and separate dining room. \$1,595,000.



VILLA D' ORO! Timeless "Villa d'Oro" is newly remodeled and exudes warmth & glamour. The 4000 sq. ft., 4-bedroom, 3-bath & 2-half-bath Tuscan villa was created by Michael Bolton on .7 acres just blocks from The Lodge and new proposed Pebble Beach golf course. \$3,995,000.

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